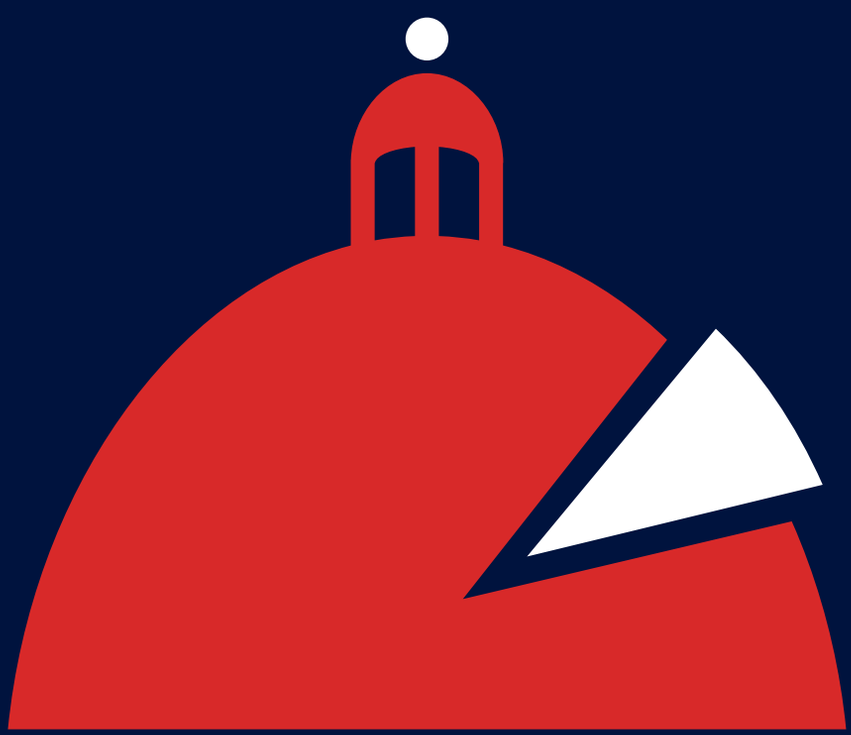
Annual state of play report of the National Assembly

2021



Otvoreni Parlament.rs

O vama se radi.

#ЕУ ЗА ТЕБЕ

THE ANNUAL STATE OF PLAY REPORT OF THE NATIONAL ASSEMBLY 2021 BY THE OPEN PARLIAMENT

Authors of the report:

Miša Bojović, Open Parliament, CRTA

Milena Manojlović, Open Parliament; CRTA

Damjan Mileusnić, Partners for Democratic Change in Serbia

June 2022

This publication is produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the implementing party CRTA and the Open Parliament Initiative and may in no way be taken to reflect the views of the European Union.

THE ANNUAL STATE OF PLAY REPORT OF THE NATIONAL ASSEMBLY 2021 BY THE OPEN PARLIAMENT

TABLE OF CONTENTS

Introduction

Recent years have brought a general crisis of confidence in representative democracy and political institutions in a significant part of liberal societies. The trend of marginalisation of parliaments and the increasingly dominant position of the executive seems to be ubiquitous, and in the constant effort to “manage crises” (political, economic, health or migrant), law-making seems less and less important, as politics as such is transformed into managing regulations in extraordinary circumstances. Citizens have less and less faith in the capacity of representative bodies to control the moves of the executive branch, and phenomena such as party discipline and lobbying additionally cast doubt on the motives of representatives and their focus on representing those from whom their legitimacy springs up.

Nevertheless, the state of democracy in Serbia in 2021 and the functioning of the 12th convocation of the National Assembly demonstrate certain specifics that go beyond parliamentarism and cannot be explained by its general crisis that affects even stable democracies. While analysing the work of the National Assembly, it is important to keep in mind the broader context which, in the case of Serbia, implies a deep crisis of all important institutions of the political system, the scale of which threatens the very division of power. Although Serbia, according to its constitutional system, is a parliamentary democracy with certain features pertaining rather to the presidential systems, the concentration of power in the hands of the President of the Republic (and the largest parties in Parliament) has completely supplanted every other dynamic among other institutions. The Parliament was marginalised, and the boycott of the previous elections, which led to the almost complete absence of the opposition, further exposed this circumstance.

This situation posed an interesting task to the researchers of the Open Parliament – how to show the almost complete absence of essence in the work of the Assembly, which at the same time had the conditions to meet every form and standards, even international ones. In that sense, the 12th convocation actually showed certain shortcomings in the methodology that most research in this area uses. For example, the enumeration of public hearings does not testify to whether and in what way they touched on burning topics in that society. The absence of the practice of using the urgent procedure during the adoption of the law does not guarantee that the legislative process as a whole is not under the complete control of the executive power, alienated from the very citizens and their already articulated demands that could be heard at the protests. Regular holding of committee meetings is not a guarantee of any discussions, let alone quality ones at those meetings.

The report itself consists of 4 parts: The first is dedicated to the constitutional and legislative role of the Assembly and includes a brief reminder of the basic findings related to the process of changing the Constitution and a detailed analysis of the main challenges of the 12th convocation. In the second part, while touching upon the electoral function of the Assembly, we analysed how judges and key figures in the judiciary were elected in the 12th convocation, whereas the third chapter of the report is dedicated to the oversight function of the Assembly. In the last part, dedicated to the representative function of the Parliament, we highlighted the main reasons that led to the collapse of the reputation and trust of citizens in this institution – poor quality of debate in plenary sessions, manner of speech that insults dignity and does not meet ethical standards, and abuse of the parliamentary rostrum in order to meet the narrow party interests of the ruling majority.

1. Constitutional and legislative power of the National Assembly in 2021

The key role of the National Assembly, as the highest representative body, is to exercise constitutional and legislative power in the Republic of Serbia. The Assembly is, thus, in charge of adopting and amending the Constitution, ratifying international agreements and adopting laws and other general acts, but also of deciding on changes in borders, on war and peace, calling referenda, declaring a state of emergency, adopting a defence strategy and the like. The Assembly is also in charge of approving the budget and the annual statement of accounts proposed by the Government.

If we focus on this aspect of the work of the Assembly, the Twelfth convocation had a lot on its plate. It had the honour to initiate amendments to the Constitution and on that occasion call a referendum, which was held on January 16th, 2022. Furthermore, during the 12th convocation, 267 laws were adopted, out of which 103 referred to the ratification of international agreements. However, as these analyses will show, both of these functions were stained by certain shortcomings.

Consequently, the Constitution was amended in a referendum called immediately after the hasty adoption of the new law governing the referendum, and without a properly conducted public campaign to inform citizens about the amendments themselves. Hence, the low turnout of citizens who voted in the referendum and the low support for the new Constitution do not come as a surprise.

When it comes to the law-making process, the dominance of the ruling majority in the very Parliament, in which the opposition was almost completely absent in the 12th convocation, has caused the Assembly to become, to a significant extent, a Government's service. This is evident not only from the fact that the Government initiated the adoption of almost all laws, but also from the purely formal role that various instances have in the process of adopting laws in the Assembly. It seems that the role of different committees in the process of adopting laws, but also the oversight of the executive power in the 12th convocation, has been reduced to a purely formal existence. Ultimately, the procedure for returning the law indicates a much more serious and, in all likelihood, the main cause of the Assembly's inadequate position – its marginalisation is just one part of a larger process of bending the entire political system in Serbia, including the institutional arrangements that allow it. Hence, the crisis of the legislative role of the Assembly is only one segment of a much more significant crisis that calls into question the division of power as such.

1.1. Amendments to the Constitution in the field of justice

In order to ensure greater independence of judges and prosecutors, the procedure of amending the highest legal act of our country officially commenced last year, with formal compliance with the procedures. As a matter of fact, the Government of the Republic of Serbia, as the proposer, and the competent committee of the National Assembly, pursued their competencies in this process in the manner determined by regulations.

During this process[1], a total of 11 public hearings were organised on the topic of changing the Constitution, in different cities of Serbia, so that all relevant actors could be involved in this process. Therefore, the process itself was much more transparent and inclusive in comparison to the previous attempt at constitutional changes from 2018. However, since in the first moment there was no Draft Act amending the Constitution, nor did the process of amending the Constitution officially start, it remains unclear which solutions the participants in the hearing initially voted on.

The working group in charge of drafting constitutional amendments and the text of the constitutional law held a total of 13 sessions, during which proposals for these two acts were drew up. The current changes were then presented to the professional public, so that participants could comment on current proposals at public hearings. Some of the participants pointed out that the media should follow these public hearings more actively and convey their conclusions. In that way, citizens would have had the opportunity to get acquainted with the proposed changes. In several television polls on this topic, it was noticed that a large number of them were not aware of the fact that the procedures for amending the Constitution were underway, let alone what the current changes implied and which area they regulated.

Legal experts who followed closely the procedure for amending the Constitution also pointed out that, although it was published on the National Assembly's website that Serbia received only praise for the proposed changes by the Venice Commission, it actually called into question the independence of the High Judicial Council in which five out of eleven members were still to be elected by the National Assembly from among prominent jurists. The Commission also criticised the amendments that leave room for political influence on the judiciary, especially in the election of the chief public prosecutor. One of the objections referred to the non-participation of the opposition in the very process. Moreover, the fact is that the process of amending the Law on Referendum and People's Initiative should have started at least a year before the referendum on amending the Constitution, which was pointed out by the Venice Commission itself.

What is more, during the monitoring of public hearings, it was noticed on several occasions that the institution of the National Assembly is still often used to settle accounts with political dissidents, and not for a constructive debate on a specific topic.

Based on all the above, it was especially important to proactively publish information and conduct a public campaign on this topic – both on the process itself and on the proposed amendments to the Constitution, not only by the National Assembly, but also with the adequate participation of the media. In that way, before the referendum, which was held on January 16th, 2022, citizens would have received information on all important aspects of this process. The opposition, which was largely opposed to the proposed solutions, also needed to be able to present its position to citizens on national television.

Nevertheless, a more active referendum campaign was lacking. Even on the day of the voting, a large number of citizens were not sure what the current changes consisted of and what they meant. Interest in this topic was extremely low, which was shown by the turnout in the referendum, i.e. the fact that only 30.65% of citizens registered to vote went to the national referendum, and decided to vote on this important issue.

[1] Open Parliament, Analysis of the Procedure for Amending the Constitution of the Republic of Serbia, available at: https://otvoreniparlament.rs/uploads/aktuelno/4.%20Pra%C4%87enje%20procesa%20promena%20Ustava%20u%20oblasti%20pravosu%C4%91a.pdf

The undermining of institutions is also noticeable in the fact that the first unofficial results of the referendum were announced by the President of Serbia at a party conference, even before those results were announced by the competent Republic Electoral Commission (REC).

Besides, several irregularities were noticed in the referendum voting process itself.[2] In fact, irregularities were noted in four percent of polling stations. Also, the observation mission CRTA assessed that the quality of the voting process was poor, which was reflected in the improper preparation of polling stations, and violations of procedures for voting outside the polling station. Not all members of the polling station committees were present at a significant number of polling stations (about 30 percent), which indicates insufficient preparation of the relevant bodies for conducting the elections. What is especially worrisome is the fact that two cases of intense pressure on the CRTA observers were recorded, which made it impossible for them to follow the voting process in those places. In point of fact, unknown persons, who were staying at the polling station without authorisation, insulted and intimidated observers.

The result of the referendum also testifies to the division of the electorate, but also to the lack of clarity about the changes themselves.[3] When asked “Are you in favour of confirming the Act Amending the Constitution of the Republic of Serbia?”, 59.62 percent of voters decided to vote YES, while 39.35% of voters voted NO. This division was especially pronounced in the capital, where 54.8 percent of voters voted for the option NO. In some central Belgrade municipalities, this difference in favour of the option NO was even more pronounced. However, the hallmark of the referendum that amended the Constitution was the very low turnout, so the question was rightly asked whether the campaign on this issue should have been conducted earlier, or in some other way, in order to better inform and motivate citizens to come to polls and decide on the constitutional changes.

Author of the analysis: Damjan Mileusnić, Partners for Democratic Change in Serbia

[2] Turnout in the referendum 29.6 percent, citizens voted “YES” for constitutional changes, available at: https://crta.rs/izlaznost-na-referendumu-296-odsto-gradjani-glasali-za-ustavne-izmene/
[3] Republic Election Commission, Referendum Results, available at: https://www.rik.parlament.gov.rs/tekst/41877/rezultati-referenduma.php

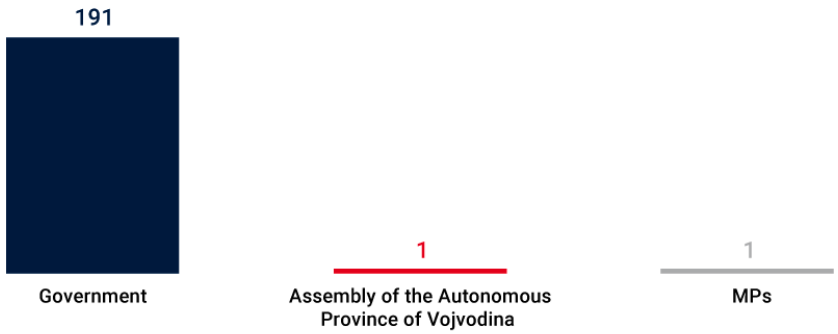
1.2. Adoption of laws in the National Assembly – a convocation that fulfilled all the wishes of the executive branch

When it comes to passing a law, the entry of a proposal into the parliamentary procedure is preceded by the process of drafting bills. As analyses[4] of the process of passing 7 selected laws in 2021 showed, the drafting process is marked by significant weaknesses – low level of transparency, insufficient involvement of experts and interested citizens, closed working groups for drafting laws, inadequate organisation of public hearings or their complete lack. In addition to creating public policies that are not focused on the needs of citizens, these circumstances may result in bills of a very poor quality.

Exactly this type of proposals came to the National Assembly of the Republic of Serbia and entered the procedure. In 2021, and in general in the 12th convocation, they were welcomed by the parliament marked by the almost complete absence of the opposition. This dominant position of the ruling majority had a significant impact on the convocation, as well as on all other functions of the National Assembly.

First and foremost, **the Government of the Republic of Serbia almost completely dominates legislative activity as the dominant proposer of laws.** In addition to the Government, the authorised proposers of laws are every MP, the Assembly of the Autonomous Province, at least 30,000 voters, as well as the Protector of Citizens and the National Bank of Serbia in the areas within their competence. However, out of 193 laws passed in 2021, the Government and the competent ministries proposed as many as 191 adopted laws (Chart 1). The two remaining laws were proposed by the Assembly of the Autonomous Province of Vojvodina (Law on Renewal of Cultural-Historical Heritage and Development Incentives in Sremski Karlovci) and the Committee on Constitutional and Legislative Issues (Constitutional Law on the Implementation of the Act on Amending the Constitution of the Republic of Serbia), which is an accompanying law that enabled the change of the Constitution.

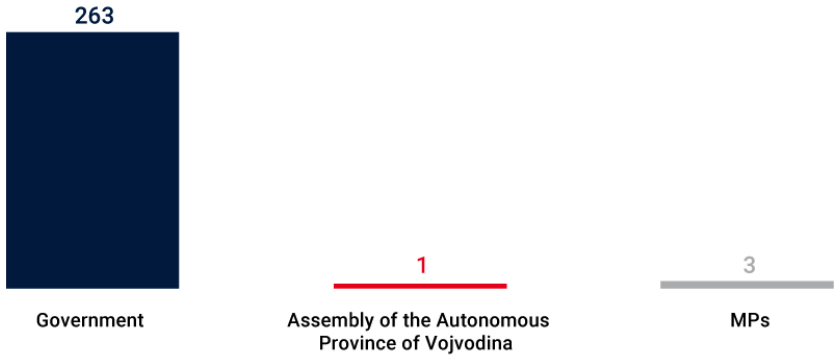
Chart 1: Authorised law proposers in 2021



[4] Open Parliament, National Assembly 2021: Analysis of the process of amending the Constitution and adopting laws in the Republic of Serbia, available at: https://otvoreniparlament.rs/aktuelno/451

The situation is not better even if we look at the activity of the entire 12th convocation (Chart 2). Out of the 267 laws passed, only four were not proposed by the government. In addition to the two abovementioned laws, the executive power has not yet initiated the adoption of the Law on Ministries, the law which determined the structure of the Government and the Law on Amendments to the Law on Weapons and Ammunition, initiated by MPs. Thus, the entire legislative activity of the 12th convocation, with 99 percent of the initiated laws, was essentially in the service of the executive branch. No bill sent to the Assembly by the executive remained unconsidered or rejected / unvoted during the plenary vote.

Chart 2: Authorised law proposers in 12th convocation



The decades-long absence of initiatives coming directly from the citizens is of particular concern. In fact, since 2001, no submitted people's initiative has been considered in the plenum, and four proposals, some of which were submitted as early as 2007, have been in the parliamentary procedure for years. As this year brought a change in the legislative framework governing this issue – first with the adoption of the Law on Referendum and People's Initiative, and only 15 days later, with the adoption of amendments to this law – it can be expected that future convocations will finally lead to the implementation of this important form of direct democracy (Figure 3).

Figure 3, submitting people's initiative

According to the new Law, the proposal of the people's initiative can be:

general (when only the general goals of change are proposed to the Parliament, and if the Parliament accepts the initiative, the act itself shall be formulated by the parliamentary committee) or
concretised (when a people's initiative proposes a law redacted in articles)

After it is established that the List of signatories of the people's initiative has been made in accordance with the provisions of this Law and that a sufficient number of signatures has been collected, the Speaker of the Assembly shall inform the initiative board thereof **within seven days**. With the delivery of the Speaker's notification to the initiative board, people's initiative shall be deemed launched.

In the next step, the National Assembly shall decide on the proposal contained in the launched people's initiative at **its first next sitting** of the regular session, but **not later than six months** from the day people's initiative has been launched. When the Assembly approves a general initiative, it shall task the competent working body to prepare a draft of the appropriate legal act and shall decide on that act **within 120 days** from the day general initiative has been approved. Representative of the initiative board shall have the right to participate in the drafting of the act.

The Assembly may decide not to accept the submitted proposal of the people's initiative, and in that case it the shall notify the initiative board of the decision and publish it on its website **within seven days** from the day the decision was made.

Nonetheless, last year has definitely shown that citizens are interested in the quality of legal solutions that are adopted in the Assembly. The end of the year was subsequently marked by citizens' protests and blockades motivated by the adoption of two laws – the aforementioned Law on Referendum and People's Initiative, which was as a consequence amended by the Law on Expropriation, whose decree on proclamation was not signed by the President. What is especially worrying is the almost complete lack of interest of MPs who, at plenary sessions held at the same time as the protests, criticised the citizens' demands, avoided to discuss key issues that gathered these citizens at the first place, and tried to delegitimise the protests themselves. In such way, the Assembly contributed to a kind of "privatisation" of the law-adoption process, which has become another tool of power available to the executive branch; and missed the opportunity to draw attention to those it represents and to include the needs of citizens in the law-adoption process.

Interestingly, when it comes to bills initiated by MPs, among the ten bills that were never on the agenda in the 12th convocation, there were four initiated by MPs. As already stated, the bills submitted by the executive branch were considered without exception. In fact, all ten

bills, resolutions and decisions, which did not receive enough support to be on the agenda at all, were initiated by MPs. Particularly bad is the practice of “eternal proposals” which, often at a politically opportune moment, reappeared again and again before MPs who never put them on the agenda. For instance, the proposal of the decision on the formation of the commission for investigation and determination of the number of victims of NATO aggression in 1999 failed to be put on the agenda as many as 17 times. The goal of such proposals of the ruling majority MPs is not the adoption, not even a declaration or a debate on the topic. Such “dusting off” of certain issues and topics mostly followed the daily political context. This practice indicates the abuse of parliamentary procedures for the purpose of everyday politics.

Nevertheless, in addition to the aforementioned instrumentalisations of parliamentary powers for daily political purposes – especially when it comes to motions for resolutions – some laws persistently failed to receive MPs’ support (Figure 4). The same MP tried to put the Bill on Amendments to the Law on Refugees 10 times on the agenda, and the Bill on Amendments to the Law on the Rights of Veterans, Military Invalids, Civilian War Invalids and Members of Their Families 7 times. Lively legislative activity in this and similar cases would include agreements and dialogue between the MP proposing a legal solution, associations of citizens dealing with this area, competent committees, other MPs interested in the area regulated by law, representatives of the executive, media – all with the aim of finding a compromise legal solution that enjoys the support of the majority and at the same time regulates certain issues in a way that satisfies the intentions of the MP who proposed it. However, with the caveat that the work of the 12th convocation was mainly closed to the public, the monitoring of the Open Parliament cannot confirm either this or similar activities.

Figure 4, bills that were never on the agenda of the 12th convocation

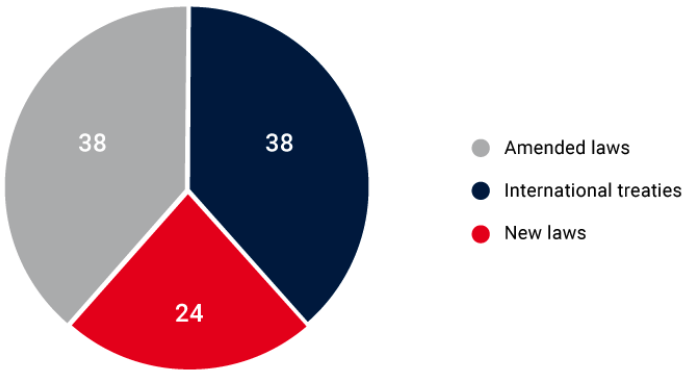
Bill	Date of first proposal	No. of motions to put it on the agenda	Proposer
Bill on Amendments to the Law on Electronic Media	09.03.2021.	2	MP Marijan Rističević
Bill on Amendments to the Law on Refugees	23.03.2021.	10	MP Miodrag Linta
Bill on Amendments to the Law on Rights of Veterans, War Invalids, Civil Invalids of War and Family Members	12.05.2021.	7	MP Miodrag Linta
Bill on Memorial Centre on Genocide over Serbs in Independent State of Croatia (1941-1945)	26.11.2021.	0	MP Miodrag Linta

From this it can be concluded that the initiation of laws was entirely in the function of the needs of the executive, while the needs of the citizens remained neglected – either through the lack of popular initiative or through poor and limited activity of MPs in this field.

Regarding the types of laws adopted during the 12th convocation (Chart 5), an identical number of laws on ratification of international agreements were passed, as well as of laws amending existing laws – 103. 61 new laws were adopted.

When it comes to transposing the EU acquis, it is difficult to assess how the process of harmonising national regulations is actually progressing. The Ministry in charge of European integration published its last Report on the implementation of the National Programme for the Adoption of the Acquis Communautaire in November 2019.

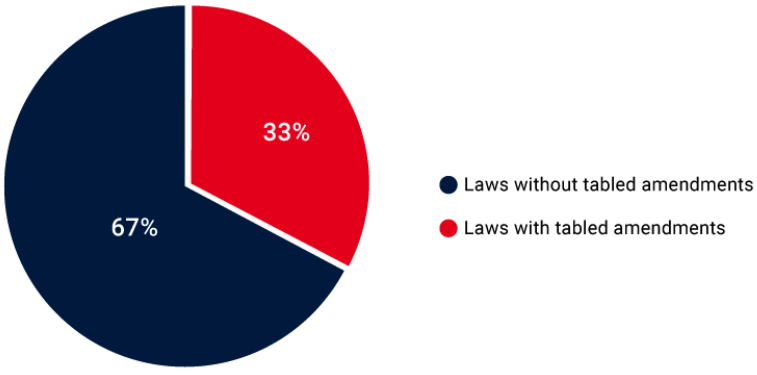
Chart 5: Types of legislative acts passed in 12th convocation



The fact that no significant progress has been made in other segments that make the foundation of the legislative function of the Parliament does not come as a surprise. An exception may be the earlier abuses of the urgent procedure in the law-adoption. The possibility of adopting laws by urgent procedure was used more moderately: in 2021, 20 times, i.e. in nine percent of cases, and during the 12th convocation on 29 occasions, which is in ten percent of the adopted laws.

During 2021, but also the entire 12th convocation, the Serbian Parliament was not a place that, through amendments, would improve the legal solutions that were to be adopted.

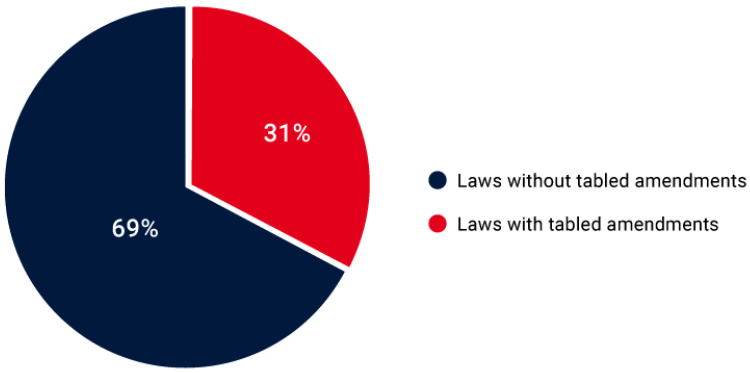
Chart 6: Ratio between laws passed with or without previously tabled amendments in 2021



Thus, in 2021, as shown in Chart 6, amendments were submitted and discussed in only 38 cases, while the remaining 78 bills were adopted without any attempts to improve their content through modifications.

The situation is nearly identical if we consider the legislative activity of the 12th convocation as a whole (Chart 7). As many as 113 bills passed through the competent committees and the plenum without any attempts to change or improve them, while amendments were submitted to 51 bills. Given the almost one-party composition of the Parliament, the opposition's amendments were almost completely rejected. Even the proposals of the SPS, the coalition partners of the largest SNS, have not always met with the support of the ruling majority.

Chart 7: Ratio between laws passed with or without previously tabled amendments in 12th convocation



In addition to indicating the extent to which the previous convocation ran on autopilot when it comes to Government demands, the occasional use of the amendment is an indicator of poor committee performance, which was perhaps the weakest point of the previous convocation.

The role of the committees, as the permanent working bodies of a parliament, is anything but formal. Committees should be the highest authority in their fields, inviting and questioning government representatives, organising public hearings, initiating and rigorously examining the quality of legal solutions governing the area or aspect for which they are in charge.

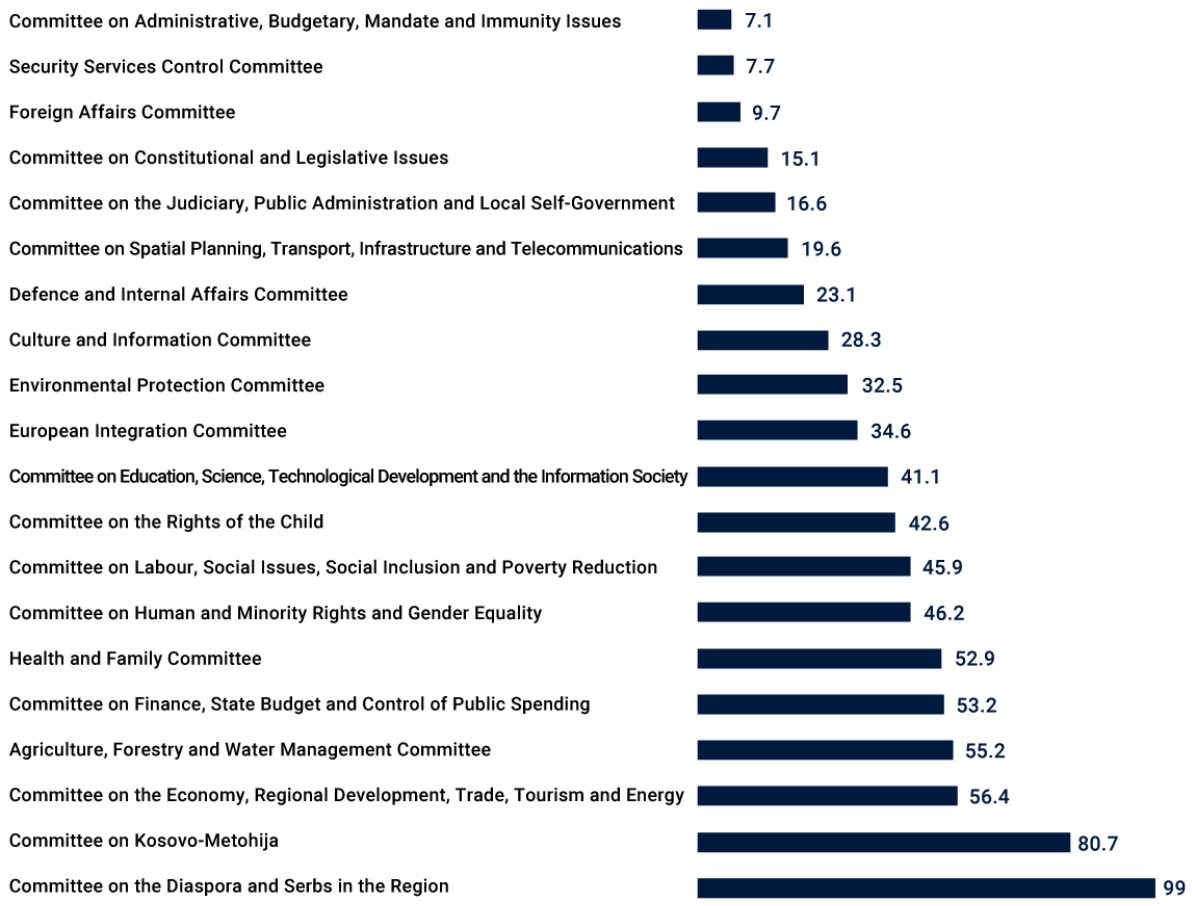
During the last convocation, 20 committees were formed, and all presidents and deputy presidents belonged to the parties that make up the ruling majority. Female MPs chaired 5 committees (25 percent) and were deputies in 10 (50 percent). A total of 570 sessions were held (Chart 8).

Chart 8: Number of sessions of parliamentary committees held 12th convocation

Most of the sessions were held by the Committee on Constitutional and Legislative Issues, which is quite logical because this Committee is in charge of determining whether the bills and other acts entering the parliamentary procedure are in line with the Constitution and legal system, and whether their adoption is justified. The European Integration Committee, which is in charge of considering the bills and other general acts from the point of view of their compliance with the regulations of the EU and the Council of Europe, met 34 times. The smallest number of sittings was held by the Committee on the Diaspora and Serbs in the Region, as well as the Committee on the Rights of the Child, which is a special permanent body chaired by the Speaker of the National Assembly in accordance with the Rules of Procedure.

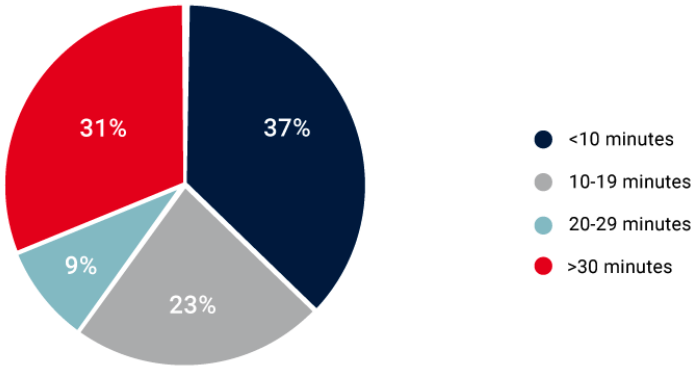
An even more important indicator of the reduction of the committees to their bare form is the analysis of the duration of the sittings themselves, shown in Chart 9. When we include 514 sittings, whose video recordings are available to the public, it can be concluded that they lasted an average of 38.3 minutes.

Chart 9: Average duration of committees' sessions per each committee in 12th convocation (minutes)



However, it is appalling that as many as 191 sessions lasted less than 10 minutes. In fact, as can be seen in Chart 10, only 160 committee sessions lasted more than half an hour.

Chart 10: Average duration of committees' sessions in 12th convocation



The quality of the work of the committees is in direct correlation with the quality of the adopted laws. An illustrative example is the **Bill on Amendments to the Law on Waters**[5], which reached the Assembly illicitly because the public hearing had not been organised although it was mandatory, and which additionally contained solutions that violated numerous provisions of existing regulations and several articles of the Constitution.

As can be seen from the following chart, this bill spent a little more than 2 weeks in the parliamentary procedure, formally going through all the necessary and planned steps. Nevertheless, only a qualitative analysis of these steps allows us to clearly see that no one is fundamentally dealing with the bills in the Assembly.

[5] Open Parliament, Law on Waters, available at: https://otvoreniparlament.rs/uploads/aktuelno/2.%20Analiza%20Zakona%20o%20vodama.pdf

Chart 11: Legislative path of the Law on Waters amendments

After entering the parliamentary procedure, the said bill was first unanimously accepted at the sitting of the Agriculture, Forestry and Water Management Committee, which was also attended by representatives of the executive branch who reasoned the bill.

Afterwards, at the sitting of the Committee on Constitutional and Legislative Issues, it was assessed that the bill was "in accordance with the Constitution and the legal system of the Republic of Serbia". The entire discussion on this item on the agenda lasted less than 30 seconds, including the statement of the members of the committee on the constitutionality of the disputed law, and no one wished to take the floor and comment on this item on the agenda.

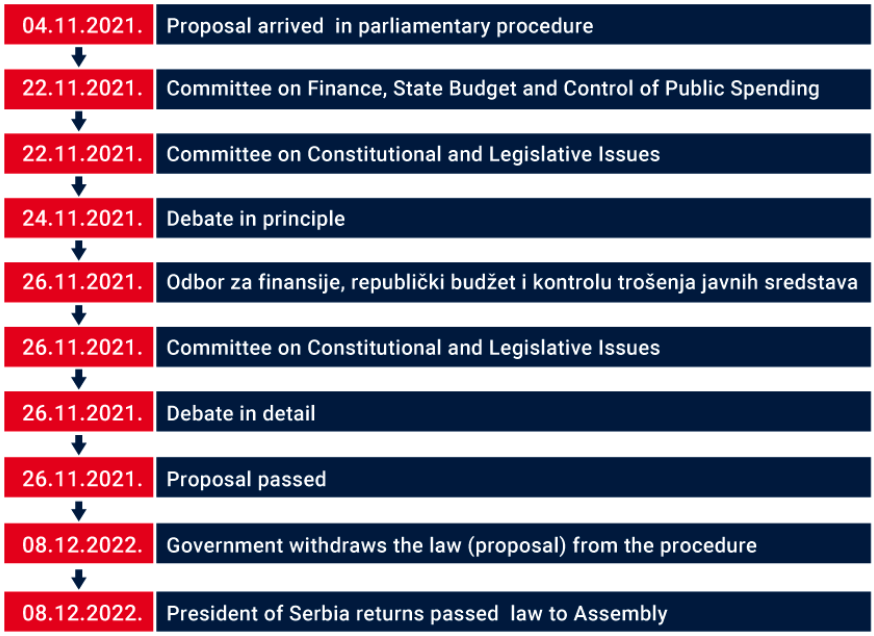
The bill was debated in principle the next day, and a day later it was adopted by a huge majority - 171 MPs voted in favour, while there were abstained votes nor votes against. So, in the regular procedure, the illicit and unconstitutional proposal was adopted as the law in 20 days of the parliamentary procedure and without any amendments.

In the next step, the President of the Republic, who signed the decree on the promulgation of the law, using the so-called right of suspensive veto, returned the law to the National Assembly for reconsideration, pointing out that certain provisions of the law are unconstitutional.[6] On the same day, it was announced that the Government of Serbia, at the proposal of the competent Ministry of Agriculture, Forestry and Water Management, withdrew the bill from the procedure.

Followed by the great interest of the public, the aforementioned Law on Amendments to the Law on Expropriation (Graph 12) went down the same path. During the 'decent' 20+ days in the parliamentary procedure, all steps in the legislative process, including amendments, were again respected. However, a substantial review of the bill quality was yet again lacking in the Assembly.

[6] The letter of the President of the Republic by which the law was returned to the National Assembly is not publicly available.

Chart 12: Legislative path of the Law on Expropriation amendments



Out of a total of three submitted amendments, only one was accepted, submitted by the Government itself and accepted by the competent committees, so it became an integral part of the Bill. However, allegedly only due to a technical error, the media published the news that the Government was withdrawing the law from the procedure before any decision of the President of the Republic. Such a development of events that, was completely devastating for the Parliament, provoked a sharper reaction of the Speaker of the National Assembly, but also drew attention to the degree of institutional collapse which is a consequence of the concentration of power in the hands of the President.[7] As a matter of fact, the President may, with a written explanation, return the law to the Assembly for reconsideration and then, as prescribed by the Rules of Procedure, "the Speaker of the National Assembly shall immediately submit it to the MPs and decide on it at the next sitting of the National Assembly". If the Assembly decides to repeat the vote on the bill returned by the President, and adopts it again, for which it will require a majority of the total number of MPs, the President of the Republic shall no longer have the right to stop the promulgation of the law. Although there are some doubts about the procedure in case the National Assembly does not want to repeat the vote on the bill, i.e. about whether it was acceptable for the 12th convocation not to put the returned laws on the agenda for the next sitting, it is still absolutely clear that there is no place for the government in this procedure. The Government, as the proposer of the law, has the right to withdraw the bill from the procedure only until the end of the debate on the bill at the session of the National Assembly. Once adopted by the Assembly, the law is no longer in the form of a proposal and therefore the Government cannot withdraw it from the procedure. This explicit interference of the Government, in a way that completely denies the leading role of the

[7] Open Parliament, Procedures in case of returning the law to the National Assembly for reconsideration, available at: https://otvoreniparlament.rs/aktuelno/443

Assembly in the legislative process, is another indicator of how marginalised the Parliament is in the 12th convocation. Even when it came to its basic function, the function of law-making.

Author of the analysis: Milena Manojlović, Open Parliament, CRTA

2. Electoral function of the National Assembly in 2021

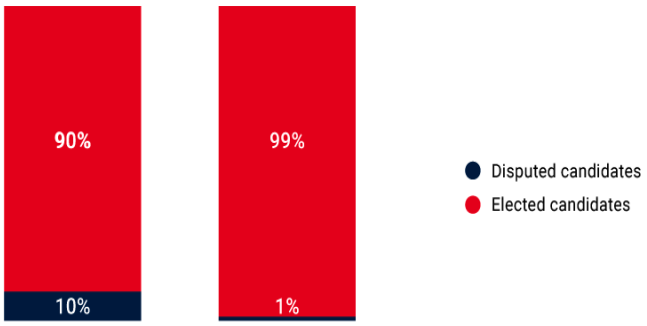
As the highest representative body, the majority of MPs in the National Assembly form and elect the Government. In addition to its executive role, the Assembly is also in charge of electing individuals who will perform some of the most important state functions, such as the governor of the National Bank of Serbia and the Protector of Citizens. In that sense, the amendments to the Constitution brought important changes when it comes to the field of justice. Although it seems that the general public did not understand the importance of the issue put before the citizens in the recent referendum, the changes affected the sensitive issue of the position and independence of the judiciary, i.e. the role of the National Assembly in electing judges and key figures in the judiciary.

In that sense, one gets the impression that the 12th convocation brought an opportunity to the dominant ruling majority to validly say goodbye to certain powers in the field of justice. The previous year was marked by the election (conditionally speaking) of candidates for two high judicial positions: the President of the High Judicial Council and the Republic Public Prosecutor. Namely, both elections included only one candidate for the mentioned positions. Moreover, the information on the professional success of the candidates and the reasons for their selection could not be heard in the plenary debate, only an unexplained praise for their work performed so far. As the analysis will show, the election of judges in the 12th convocation implied a number of alarming practices which are, it seems, also a consequence of the subordination of the institution of the National Assembly to logic and the interests of the largest ruling parties. The degree of derogation from procedures that regulated this sensitive issue is perhaps best evidenced by the mysterious rejection of certain “unsuitable” candidates for the position of judge.

2.1. Election of judges – Where is the balance between the legislative and the judiciary?

During only one year of the 12th legislature, 220 judges were elected to the office for the first time. As a point of comparison, in the previous legislature, which reached its full four-year term, 485 judges were elected. Illustratively, in the current legislature, the candidacy of 24 judges was challenged, while in the previous four years, only five were challenged.

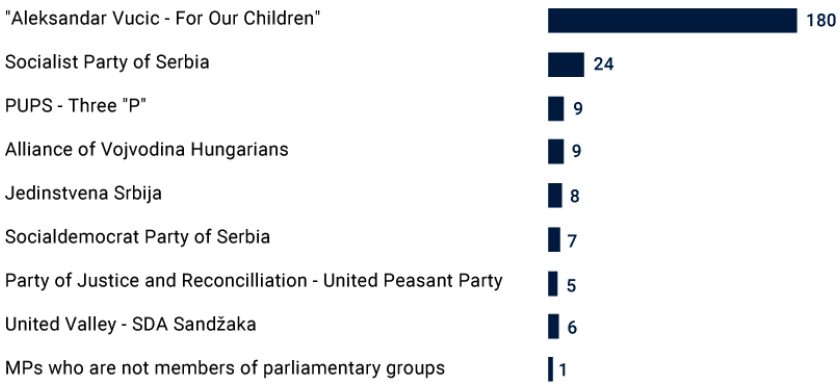
Chart 1: Election of a first-time elected judges



All present MPs voted against the election of the challenged candidates. Most of the challenges passed without explanation. Only after almost a year, did it become clear from the statement of one MP that some kind of security checks of candidates are being performed. However, we still do not know what kind and by whom. The problem with this statement is that there are no legal preconditions for doing so.

It seems that the Parliament has never been more united in its decisions. Why is that so? One year before the end of the previous 11th legislature, the opposition started a boycott of the work of the Assembly. The stated reasons referred to the obstruction of the work of the Parliament by the ruling majority that submitted too many amendments to the regulations, which made it impossible for the opposition MPs to present their proposals from the rostrum. The boycott of the opposition, explained by poor election conditions, continued during the next elections for MPs. The twelfth legislature is characterised by the least pluralism in the last thirty years. Ninety-seven percent of MPs belong to the ruling majority. Out of 250 elected, only 7 are opposition MPs, out of which 6 belong to one minority party. The circumstances in which the candidacies for the position of judge are rejected, practically by a single party, the ruling one, are worrying. Although this legislature was elected in the elections, the question of its legitimacy is topical, since it did not ensure the representation of all relevant political options in society.

Chart 2: Parliamentary groups in 12th convocation



All disputes over the election of judges to the first judicial office in the previous 11th and current 12th legislature came from the ranks of the MPs of the Serbian Progressive Party. According to the Rules of Procedure of the National Assembly, there is an obligation to reason every challenge to the candidacy. However, until October 14th, 2021, the citizens had not been presented with the reasons for challenging the previous candidacies. At the Second Sitting of the Second Regular Session, the MP Dejan Kesar stated that he challenged the candidacies of certain judges as they did not "meet basic and fundamental security criteria". The largest number of candidacies in the current, 12th legislature, was challenged by the chairperson of the Committee on Constitutional and Legislative Issues Jelena Žarić Kovačević – 17 (out of a total of 24), each time without explanation. The snowball effect was initiated by the MP Dejan Kesar, when he mentioned that judges are being challenged after the alleged security checks, explaining that in conversations with unnamed citizens, information was obtained supposing that candidates do not meet the conditions. On the same occasion, Dejan Kesar urged the High Judicial Council, the expert body that proposes candidates to the National Assembly by telling its members: "Be careful and do not interpret this as any form of pressure, but when defining certain proposals for decisions, look in a little more detail, in a slightly more concise way who the candidates are, what qualities they have and send such candidates to the National Assembly for decision-making." The statements of MPs from coalition parties testify that this is a political decision and that the decisions to challenge certain candidates for the first judicial office come from only one political party which is currently the strongest – SNS: "I don't know if there were enough explanations in previous cases, when the judges were challenged, because as far as I understand my colleague Dabić, these ones will not be challenged. We did not know in the SPS whether they would be challenged or not. We did not know. The arguments they gave could be either acceptable or unacceptable. They were acceptable for us and we voted that way" (Toma Fila, SPS, November 18th, 2021). None of the challenged candidates was elected.

According to the Rules of Procedure of the National Assembly, Article 201, paragraph 3, a Member of Parliament may challenge a proposal for the election of judges elected for the first office, whereby the challenge must be explicitly explained. Only at the Sixth Sitting of the Second Regular Session, on November 18th, 2021, the requests of the professionals for explanation of the MPs' decisions and motives to challenge certain candidates were

satisfied. The representative of the High Judicial Council, Snežana Bjelogrlić, demanded from the MPs to explain the decisions on challenging the candidacy of certain candidates: “When I said that I expected an explanation, [it was because I wanted us] to be able to discuss. You know, a judge needs to meet the requirements of qualifications, competence and worthiness, which we assess during the election procedure when we send proposals to the Parliament. When the MPs merely challenge [this proposal], we do not know the reason and when they say it is for security reasons, as they did last time, it is not clear to us what it is about, whether it means that a candidate is unworthy, considering that these candidates still apply for the competition and we do not know how to behave; we must hear an argument.” Coalition partners reacted to this reasoned request: “You asked us to give an explanation if we challenge someone. Is it a critique of the work so far, or what? Because when my colleague Dabić issued a challenge last time, I agreed and that is a sufficient explanation” (Toma Fila, SPS, November 18th, 2021),” We have the right to challenge. Whether these will be called subjective or objective reasons, whether these reasons will be called security, we have the right, as the MPs who have been given sovereignty by the citizens of the Republic of Serbia, to challenge any candidate. Because we want the best people to work in the judiciary, the best to do justice and in that way the citizens have confidence in the judiciary and our legal order. “(Dejan Kesar, SNS, November 18th, 2021).

Figure 3. Election of judges to the first judicial office in the 12th legislature of the National Assembly

Date of decision	Elected	Challenged	MP who contested the election	Voting results	Remark
December 29th 2021.	9	0		171 in favour	
December 15th 2021	25	0		185 in favour	
November 17th 2021	1	0		181 in favour	
October 14th 2021	10	7	Dejan Kesar 5 Uglješa Mrdić 2	157 in favour	None of the challenged was elected
May 6th 2021	25	1	Jelena Žarić Kovačević 1	176 in favour	The challenged one was not elected
May 6th 2021	77	12	Jelena Žarić Kovačević 12	178 in favour	None of the challenged was elected
April 14th 2021	33	4	Jelena Žarić Kovačević 4	173 in favour	None of the challenged was elected
March 25th 2021	1	0		199 in favour	
March 4th 2021	31	0		167 in favour	
January 28th 2021	2	0		204 in favour	
January 28th 2021	6	0		206 in favour	

Although according to Article 147 of the 2006 Constitution, the role of the Assembly in the election of judges is limited to the election of judges elected for the first time, while after three years of office, their re-election for permanent judicial office is made by the High Judicial Council, the importance of this function is reflected in the fact that if a candidate

does not pass the election in the Assembly, he/she cannot become a judge, even though he/she was recommended by a professional body that later re-elects him/her. Having in mind that the candidates who were "recommended" to the National Assembly for election have already passed the assessments of the expert commission, the reasons for their rejection in the institution, which includes political actors who make decisions, should be thoroughly explained. Otherwise, it could be assumed that challenging individual candidates on an unknown basis may have a political background, i.e. that future judges are elected on the principle of political acceptability, and will eventually return the favour by passing desirable court decisions.

The Constitution from 2006, which is still in force, prescribes the permanence of the judicial tenure. Exceptionally, a person who is elected a judge for the first time shall be elected for the period of three years. The Constitution also stipulates that on proposal of the High Judicial Council, the National Assembly shall elect as a judge the person who is elected to the post of judge for the first time. It is important to note that the majority of members of the High Judicial Council are currently elected by the Assembly, and decisions in the High Judicial Council are made by a majority vote of all members.

When it comes to proposing candidates for the first judicial office, the High Judicial Council, in accordance with the provisions of the Law on Judges, announces the election of judges. After the completion of the applications, it conducts a procedure for each candidate individually, in which it determines their qualifications, competence and worthiness, and then conducts an exam for future judicial office holders. After that, it sets up the draft decision and sends it to the National Assembly and the competent Committee for Justice. A citizen of the Republic of Serbia who meets the general requirements for employment in state bodies, who is a law school graduate, who has passed the bar exam and who is deserving of judgeship may be elected a judge. Qualification means possessing of theoretical and practical knowledge necessary for performing the judicial function. Competence means possessing of skills that enable efficient use of specific legal knowledge in dealing with cases. Worthiness means ethical characteristics that a judge should possess, and conduct in accordance with such characteristics. The criteria and standards for the assessment of qualification, competence and moral character are set by the High Judicial Council, pursuant to law. The High Judicial Council shall obtain the information and opinions about the qualification, competence and moral character of a candidate. The information and opinions are obtained from bodies and organisations where the candidate worked in the legal profession, and in case of a candidate coming from a court, it is mandatory to obtain the opinion of the session of all judges of that court, as well as the opinion of the session of all judges of the immediately higher instance court. Before the election, a candidate has the right to view information and opinions. Within the compulsory documents that a candidate for the first election of a judge to a judicial office must submit to the High Judicial Council, there is also a certificate of no criminal proceedings.

In addition to the above criteria, no law or regulation mentions the security check of candidates for judges, nor is it clear what exactly it means and who can conduct it. Apart from the MPs who state that this is the basis for challenging the candidates, there are no legal solutions that support these statements. Such claims of the MPs are disputable from several points of view – who conducts checks of the candidates for the position of judge, according to which criteria, were these candidates informed about it and in what way did the MPs come into possession of this information? Security checks in the Republic of Serbia can be conducted by the police, the Security Information Agency and the Military Security Agency. Their work is regulated by adequate laws. Thus, Article 102 of the Police

Law details the list of persons over whom a police officer has the right to conduct security checks. The list does not include checking of candidates for judges for the first judicial office. Candidates for the first judicial office do not belong to the above-mentioned persons from Article 141 of the same law: middle-level managers and persons in positions and appointed persons, i.e. high-level and strategic level managers in the Ministry. Furthermore, the Rulebook on Police Powers, in Articles 72-74, states that there must be a legal basis for conducting a security check and that the applicant must submit the consent of the person, before the start of the security check. The Law on Judges does not provide either for such types of checking of candidates for the first judicial office. Undoubtedly, according to the MP, someone performed security checks on the candidates, however, what remains unclear is who did it and on what grounds. Even if such checks had been conducted, the candidates should have been informed about the reasons why they were not elected to the position to which they applied.

“I think that there is nothing disputable that the National Assembly, as the highest legislative body, discusses future candidates for judicial office and that we give our opinion on the proposed judges who come to us from the High Judicial Council, because as in previous debates, Dr. Aleksandar Martinovic said: We must not allow to return to the system of self-government in 2021, and then listen to the opinions and views of various organisations on how we should do our job, i.e., on how to be the bearers of one part of sovereignty that citizens gave us in the open and the democratic elections in June 2020. I truly think that it is good to hear the opinion of the MPs when we talk about the holders of judicial office.” (Dejan Kesar, SNS, November 18th, 2021). Nevertheless, the removal of the MPs from the election of judges is the goal of the newly adopted amendments to the Constitution. On November 30th, 2021, the same National Assembly and the same MPs adopted the Act amending the Constitution with 193 votes in favour and three votes against. Constitutional changes are being adopted with the aim of greater independence of the judiciary, which is one of the requirements for harmonisation with European Union standards. None of the MPs, who emphasised the need that the National Assembly elects judges to the first judicial office, voted against these changes, although the adopted Act amending the Constitution excluded the National Assembly from the procedure of electing judges, which procedure is now fully left to the High Judicial Council.

The provisions of the Constitution of the Republic of Serbia that are still in force stipulate that the High Judicial Council consists of 11 members, three of whom are ex officio (Minister in charge of Justice, Chairperson of the competent Assembly Committee, President of the Supreme Court of Cassation), and eight are elected members. Elected members are elected by the National Assembly, namely two eminent and renowned attorneys with at least 15 years of experience in the profession (one from the ranks of attorneys, one professor of law) and six judges with a permanent judicial office. The Act amending the Constitution stipulates that the High Judicial Council will consist of 11 members – the members will be the President of the Supreme Court, six judges will be directly elected by judges, and four will be elected by the National Assembly on the proposal of competent committees. So, instead of eight members of the High Judicial Council who were previously elected by the Assembly, there will be only four according to the newly adopted proposal. The aim of this solution is to ensure a balance between the representatives of the profession and the members elected by the legislative, in order to promote the independence of the profession. Moreover, instead of a majority vote of all MPs, the election of elected members of the High Judicial Council will require the vote of as many as two thirds of all MPs. If a two-thirds majority is not achieved for the election of candidates, within the deadline foreseen by law, the remaining members shall be elected by

a commission consisting of the Speaker of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court of Cassation, the Supreme Public Prosecutor and the Protector of Citizens.

Although the process of amending the Constitution in the field of justice began in 2016, it was intensified after the Government of the Republic of Serbia submitted a proposal to change the Constitution on December 4th, 2020. The proposal for change was presented to the National Assembly on June 7th, 2020, and it decided by a two-thirds majority to start the change. During the public hearings on the topic of changes to the Constitution, the ruling majority said that the changes to the Constitution were being made due to the requirements of the European Union within the mandatory conditions for EU accession, even though not all MPs were satisfied. However, a number of MPs, who did not want to give up the right to elect judges to the first judicial office, despite disagreements with the proposed solutions, actively participated in the process of amending the Constitution.

At the request of Serbia, on November 24th, 2021, the Venice Commission issued an urgent opinion on the Act amending the Constitution. The opinion states that although the revised constitutional amendments, if adopted, have the potential to bring significant positive changes to the Serbian judiciary, much will depend on their implementation and that the current constitutional reform is a necessary and important first step in the process, but it does not represent the end of this process. The Commission pointed out that, in addition to legal changes, a profound change in the political and legal culture that prevails in Serbia will be necessary in order for the effects of the constitutional amendments to become tangible. The Commission, inter alia, welcomed the abolition of the competence of the National Assembly to elect presidents of courts and public prosecutors and decide on the termination of their office, as well as to elect judges and deputy public prosecutors.

Author of the analysis: Miša Bojović, Open Parliament, CRTA

3. Oversight function of the National Assembly in 2021

The oversight function of the National Assembly includes overseeing the work of the Government, as well as deciding on its termination and the mandate of individual ministers, security services, as well as the work of the Governor of the National Bank, independent institutions and other state bodies.

Essentially, it represents one of the foundations on which representative (parliamentary) democracy is based – citizens elect MPs as members of the representative body in charge of adopting laws. The majority in Parliament forms a government that becomes the bearer of executive power, in charge of enforcing these laws. The government remains accountable to that Assembly, which controls, oversees and improves its work, using various mechanisms for this purpose.

With that in mind, it seems that the almost complete absence of the opposition did not harm any of the competencies of the Assembly as much as its oversight function which was, in the 12th convocation, reduced to a pure form. In fact, as party discipline largely restricts the appearances of the ruling majority MPs – in Serbian but also in other parliaments – opposition MPs are those who are primarily interested in examining, controlling and criticising the work of the government. It is not surprising, as the analysis will show, that the mechanisms that MPs have at their disposal have been used to a limited extent, purely for the sake of respecting the form.

Consequently, the possibility of the Assembly to initiate some “hard” oversight mechanisms was not an option. This convocation did not control the Government. The President of the Republic limited in advance the duration of this convocation and this Government, immediately after the boycotted elections in 2020. It is difficult to assess the work of committees as satisfactory –either in their role in the law-making process or in the control of the executive branch. The absence of the opposition has in some cases led to an absurd situation in which certain mechanisms, such as parliamentary questions, have largely become tools for joint praise of MPs and present representatives of the executive branch of the President of the Republic. This convocation completely missed the opportunity to use the powers and competencies of independent institutions for their basic purpose, control and improvement of the work of the executive branch. Thus, the annual reports of independent institutions were mostly considered in a way that utterly marginalises them.

3.1. Non-use and abuse of control mechanisms in the Assembly

The survival of a government depends on whether it enjoys the support and trust of the majority of MPs in parliament. Thus, the basic mechanism of control of the executive power is **the vote of no confidence in the Government or its member**. However, during 2021, the decision on the fate of one minister was made within the party, and the stake was the party function, which once seemed much more valuable than the ministerial one. Namely, the request for the removal of the Minister of Defence Nebojsa Stefanovic, who faced accusations of illegal wiretapping of the President of the Republic, was initiated by a member of the main board of the SNS and MP Vladimir Dukanovic. Such an unfolding of events raises numerous questions, but most of all it testifies to the extent to which political power is found in institutions in general. As it happens, a minister faced serious

accusations, and then, after a media coverage of the internal party process, he was left without his function within the SNS (he resigned as president of the SNS City Board in Belgrade at the initiative of a party colleague who is also an MP). His status and function as a minister have never been a topic in the National Assembly.

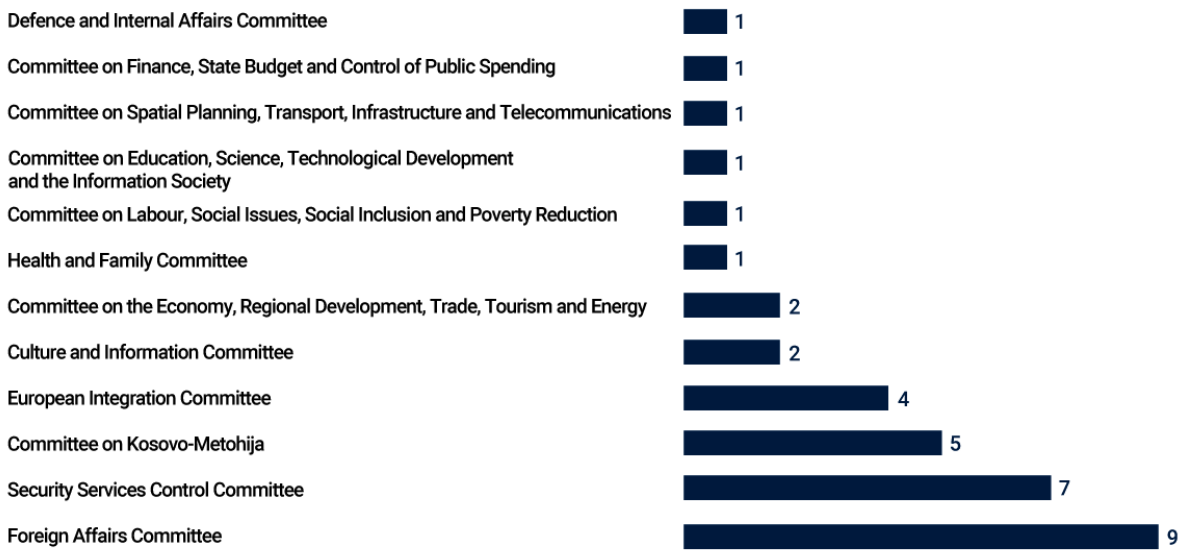
Interpellation is a mechanism in which the reply to a question submitted to the Government or its member by at least 50 MPs is discussed at a sitting of the National Assembly, and the answer is finally voted on. If the National Assembly votes not to accept the reply to the interpellation, a vote of no confidence in the Government or a Government member shall be taken, unless the Prime Minister or a Government member resigned after the National Assembly voted not to accept the reply to the interpellation. The topic of the question may be a rationale of a particular action taken in conducting the policy. The mentioned mechanism was not launched in the 12th convocation.

The launch of these mechanisms calls into question the very survival of the Government. This is why they are used less often and they are reserved for serious political crises. However, **committees** are crucial when it comes to the usual oversight of other executive bodies. Their scope of work also includes monitoring the implementation of the policy pursued by the Government, execution of laws and other acts, reviewing work plans and reports of the competent ministry and other state bodies, as well as giving consent to certain acts of state bodies.

As stated in the chapter dedicated to the legislative function of the Parliament, a total of 570 sitting were held during the 12th convocation. When we include 514 sittings, whose video recordings are available to the public, it can be concluded that they lasted an average of 38.3 minutes. However, the fact that as many as 31 percent of those sittings lasted less than 10 minutes is indicative as it demonstrates that there were no opportunities for substantive control, which would certainly require more time. That said, only 160 committee sessions lasted more than half an hour.

An interesting insight is provided by the analysis of the practice of closing sittings to the public. In fact, for 21 sitting held during the 12th convocation, there are no published video recordings, and no specified reasons for that. Even more importantly, 35 sittings were marked as closed to the public. As can be seen from the following chart, the circumstances that dictate such closing were only partially achieved. These imply cases when documents bearing the secrecy need to be examined. It is therefore surprising that the Defence and Internal Affairs Committee had only one such sitting, while the Security Services Control Committee convened in this way less often than the Foreign Affairs Committee, which had the largest number of such sitting, a total of nine. One cannot therefore rule out the possibility that closing a small number of some committees' sittings to the public indicates a substantially poor activity when it comes to performing the oversight function. Also, given the scant explanations that accompany the closing of sittings, it is not possible to determine whether the use of this practice has always been justified.

Chart 1: Committees' sessions closed for public in 12th convocation



One of the important competencies of committees is to organise public hearings. Namely, the committee may organise a public hearing to obtain information, i.e. expert opinions on the draft act that is in the parliamentary procedure, clarification of certain decisions from the proposed or valid act, clarification of issues important for the preparation of the draft act, or other issues within the committee's competence, as well as to monitor the implementation and application of the law, i.e. exercise the oversight function of the National Assembly. Therefore, public hearings, following the basic tasks of committees, can play an important role in exercising both legislative and oversight functions.

During the 12th convocation, six committees organised a total of 23 public hearings (Chart 2). Out of these, 21 public hearings were held during 2021. The largest number was organised by the Committee on Constitutional and Legislative Issues; a total of ten hearings were dedicated to changing the Constitution in the field of justice. The Committee on the Judiciary, Public Administration and Local Self-Government also organised a hearing on the same topic. In addition to changes to the Constitution, four more hearings were organised to present bills, budgets and final accounts, and draft strategies. The remaining seven public hearings were dedicated to topics relevant to the work of specific committees – the Committee on Education, Science, Technological Development and the Information Society organised five public hearings on digitalisation, information security and artificial intelligence development, while the Environmental Protection Committee organised two hearings on the role of local self-governments in water purification and implementation of the United Nations Conference on Climate Change – COP26.

Chart 2: Public hearings in 12th convocation

All 23 hearings included speeches by representatives of the Government, while nine presentations were addressed by experts and representatives of civil society organisations. Although the trend of organising public hearings in order to, for example, take a clear position and develop appropriate legislation on the accelerating development of technology is to be commended, it seems that the implementation of control over the executive branch through public hearings was lacking in the 12th convocation.

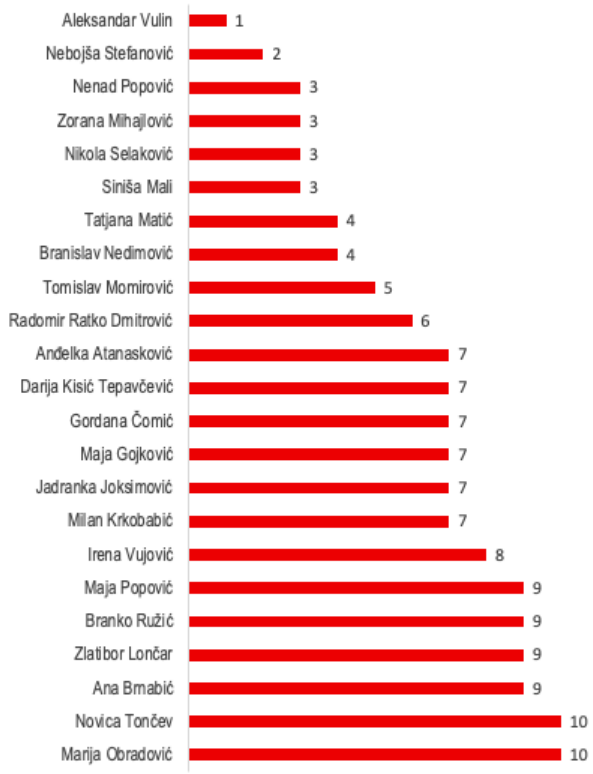
In addition to public hearings, the National Assembly has the possibility of forming **inquiry committees and commissions**, in order to review the situation in a particular area and establish facts about certain phenomena or events. As specified in the Rules of Procedure, representatives of state bodies and organisations are obliged to respond to the invitation of the Inquiry Committee, i.e. the Commission, and to give true statements, data, documents and information. The Inquiry Committee, i.e. the Commission, submits a report to the National Assembly, with a proposal of measures. During the 12th convocation, no inquiry committee was formed. As far as the commissions are concerned, on April 20th, 2021, the National Assembly passed a Decision on the election of members of the already established five-member Commission for the Control of the Execution of Criminal Sanctions, the establishment of which is envisaged by the Law on Execution of Criminal Sanctions. According to the data available on the website of the National Assembly, this Commission met only three times. The first sitting lasted less than four minutes, the second less than five, while the recording from the last sitting is not available. Therefore, as in the case of the vote of confidence and the interpellation, it can be concluded that these two control mechanisms were not used in the 12th convocation.

The Rules of Procedure envisage asking **parliamentary questions** in the presence of members of the Government as an activity that is carried out at the ongoing sitting, every last Thursday of the month from 4 to 7 p.m. The Government is first obliged, no later than three days before the session, to inform the National Assembly if its members are not able to attend and ask questions. The present member of the Government shall immediately reply verbally to a parliamentary question posed. If a certain preparation is required for providing the reply, they shall substantiate it immediately, and provide the reply to the MP, in writing, no later than eight days after the question was posed. After the reply to a parliamentary question has been provided, the MP who had posed the question shall be entitled to comment on the reply for three minutes at most, or pose a supplementary

question. Upon hearing the reply to the supplementary question, the MP shall be entitled to declare his/her opinion on the reply received, within two minutes at most.

MPs had the opportunity to ask questions to members of the Government nine times in 2021, and ten times in the 12th convocation. As can be seen in the following chart, the availability of members of the Government varied.

Chart 3: Parliamentary Questions - Number of attendance by Government ministers

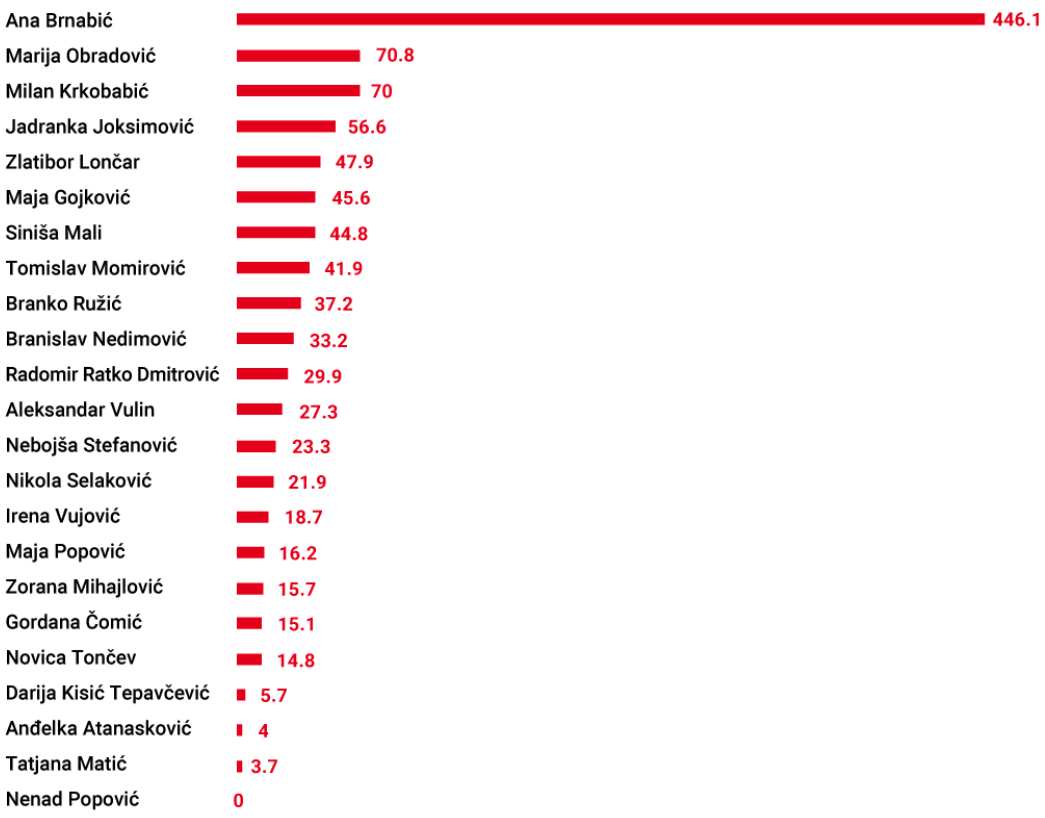


Thus, the Minister of the Interior was available to MPs only once, in July 2021. The absence of the mentioned Minister of Defence, who was mentioned earlier, was also noticeable. He has not appeared in the National Assembly since January 2021, i.e. since the moment when his status in the party was called into question. On the other hand, the Prime Minister and Ministers in charge of Health, Education, Culture and Information, Public Administration and Local Self-Government and Minister without Portfolio Novica Toncev were regularly available to provide replies to questions.

Although some members of the Government were available to MPs, this did not mean that they were often asked questions. Thus, Minister Toncev attended the sittings five times, but the MPs did not ask him anything, nor the Minister of Economy. The ministers in charge of ecology, labour and social affairs, as well as human and minority rights, also remained silent four times. On the other hand, the Prime Minister and the ministers of education and rural welfare received questions from MPs each time. In the case of ministers, questions were most often asked by MPs from their own parties, so this mechanism of Government oversight was often used as its opposite, as a method of promoting the work of those ministers. The situation is the same with the rarely present ministers of the interior and

defence. It also convenes to take into account the time of addressing members of the Government to MPs, which is shown in the following chart.

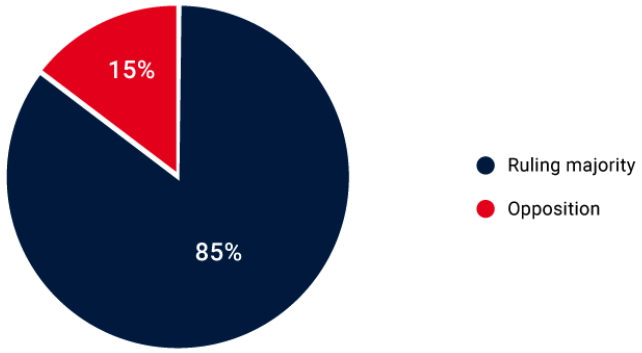
Chart 4: Parliamentary Questions- Government's representatives replies in minutes in 12th convocation



As can be seen, the MPs were not interested in the work of Minister Nenad Popovic, to whom they did not ask any questions. On the other hand, the Prime Minister answered the questions for a little longer than 7 hours and 26 minutes.

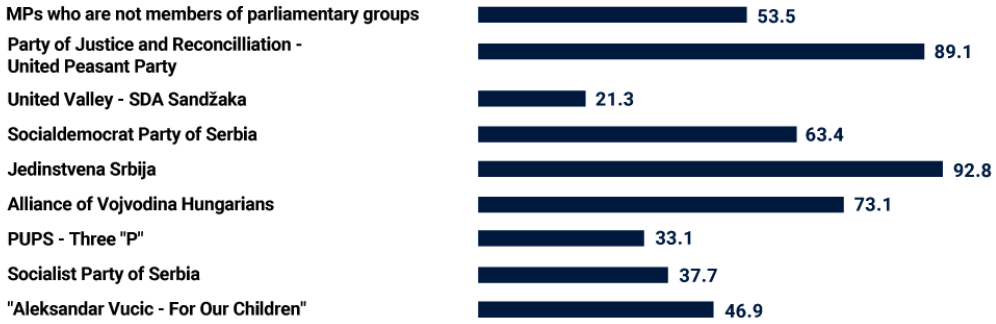
An interesting insight is also provided by the statistical processing of the time that MPs were given to ask questions (Chart 5). Opposition politicians and one independent MP "spent" 15 percent of the total time that MPs used to question representatives of the executive branch in the 12th convocation.

Chart 5: Ratio of time between ruling majority and opposition used for parliamentary questions (%)



If we divide the time by parliamentary groups (Graph 6), we come to the conclusion that most of the time was used by MPs who make up the ruling majority but do not belong to the dominant parliamentary groups “Aleksandar Vucic – for our children” and SPS.

Chart 6: Time used per parliamentary group for posing parliamentary questions (minutes)



What is especially indicative is the intensity of the activities of the parties of national minorities, which formed the ruling majority, and which most often used local issues, i.e. topics related to the communities they come from, to ask parliamentary questions. More precisely, by asking ‘appropriate’ questions, they gave the opportunity to ministers to point out the already achieved local goals and to commit to new ones, while the MPs themselves addressed their voters and presented them with all the benefits they managed to fix up for them through participation in the ruling majority.

This trend indicates a significant shortcoming when it comes to the use of this mechanism of oversight of the executive in the 12th convocation – parliamentary questions are most often not used for control. The degree of distortion of the political system is vividly evidenced by the focus on the President of the Republic when asking questions, both among MPs and members of the Government. Thus, the mechanism that serves the convocation to control the executive branch served as a channel of praise for the President

of the Republic, the incumbent bearer of sovereignty directly elected by the citizens who, therefore, unlike the Government, does not link its legitimacy to Parliament. It is not surprising that the Minister of Economy, while providing a reply to a parliamentary question, praised the attitude towards industry that developed "under the Government of Aleksandar Vucic", all in the presence of the Prime Minister.

The role of **independent institutions** was first implemented in Serbia with the establishment of the institution of the Commissioner for Information of Public Importance in 2004. By and large, independent institutions are designed as an additional form of controlling the executive branch and as a special protection of areas vulnerable to abuse. Hence, they represent a natural ally to the National Assembly, which should pay special attention to their reports and recommendations for improving the work of the executive[8]. Independent institutions are obliged, on the basis of the laws that regulate their work, to submit annual reports on their work to the National Assembly. This obligation is reflected in the reporting on the work within one calendar year, on the basis of which the reports arrive in the Assembly in the first third of the next year. Afterwards, according to the Rules of Procedure of the National Assembly, the competent committee(s) consider(s) the received reports within 30 days and formulate(s) conclusions that are reviewed and adopted at the next session of the Assembly. As specified in the Rules of Procedure, the committee(s) may propose to the National Assembly to oblige the Government and other state bodies to take appropriate measures and activities within their competence, and precisely in this step, they could rely on the conclusions of the annual reports. In addition to annual reports on their work, independent institutions may submit special reports on topics within their remit, and the competent committees may invite institutions to provide them with the information necessary for their work.

Nonetheless, deep-rooted attitude towards the reports of some independent institutions, which were completely ignored in the Parliament in the period from 2014 to 2018, reveals that the Assembly does not recognise them and their powers as their own additional tool. The lack of substantial interest in the contribution that annual reports can make to the oversight function was evident in the 12th convocation as well, although the reports themselves were formally considered.

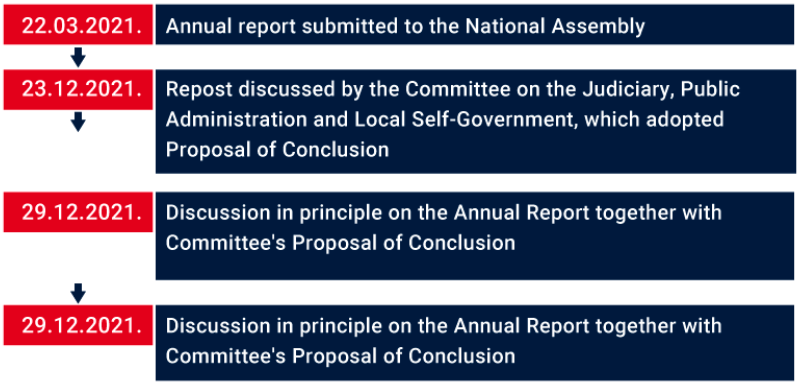
First of all, there is an apparent several-month delay when it comes to considering the reports, which were submitted to the Assembly within the legal deadline. The proposed conclusions of the committees and the annual reports of the Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection for 2019 were considered as late as on December 26th, i.e. on the last Saturday of 2020. While the delay in 2020 could be partly explained by the long process of constituting the Parliament after the elections, which practically started in October, the same treatment of the report in 2021 indicated that it had become a new practice. To wit, after the complete neglect of the report, which was an obvious violation of the obligations of the Assembly, the 12th convocation brought the practice of marginalising and neglecting the essence, by putting forward only the form.

Thus, the annual report of the Commissioner for Information of Public Importance and Personal Data Protection arrived in the Assembly on March 22nd, only to be examined by

[8] Crta, Analysis of the role of the National Assembly in ensuring compliance with the recommendations of independent institutions, available at: https://crta.rs/wp-content/uploads/2022/03/Uloga-Narodne-skupstine-u-obezbedjivanju-postovanja-preporuka-nezavisnih-institucija-2022.pdf

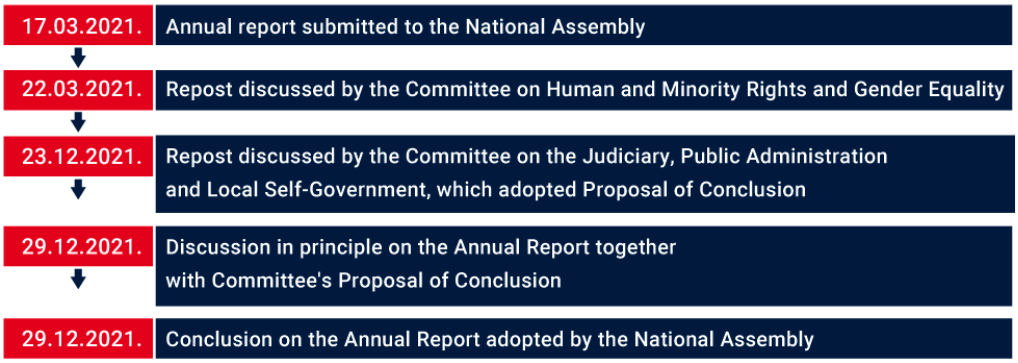
the Committee on the Judiciary, Public Administration and Local Self-Government on December 23rd (chart 7).

Chart 7: Disscussion on the 2021 Annual Report of the Commissioner for Information of Public Importance and Personal Data Protection



The report of the Protector of Citizens had the same treatment, as can be seen from the following chart, because in that case, too, the committees waited 9 months to receive the reports.

Chart 8: Disscussion on the 2021 Annual Report of the Protector of Citizens Ombudsman



In that way, the conclusions of the report and all possible recommendations were made senseless, because the National Assembly did not act accordingly, and it did not even consider them in a timely manner. On the same day, December 29th, 2021, in addition to the abovementioned two reports, the plenary session considered and then voted on the annual report of the Commissioner for the Protection of Equality and the Anti-Corruption Agency.

The second indicator that the consideration of the report is strictly formal are the very conclusions s, which are adopted by the competent committees, i.e. the final plenum[9]. For the most part, they remain generalised – the Government "calls" for certain activities, as

[9] Open Parliament, Conclusion on the consideration of the regular annual report of the Protector of Citizens for 2020, available at: https://otvoreniparlament.rs/akt/4711

well as for “continuous reporting to the National Assembly on the implementation of this conclusion.” There is a lack of concretisation, both of the actions required of the Government and the deadlines and methods of verifying whether the Government has accepted the task and accomplished it properly.

Author of the analysis: Milena Manojlović, Open Parliament, CRTA

4. Representative function of the National Assembly in 2021

The representative function of the National Assembly is the basis of modern democracies and implies that MPs act for and on behalf of citizens who are the bearers of sovereignty. Depending on the electoral system, MPs are sometimes tied to a specific constituency that elected hem and that they represent. In the case of the National Assembly, 250 MPs represent all citizens of Serbia. Therefore, in order to maintain a constant connection with the citizens, which is the basis of legitimacy, it is important to consider citizens’ proposals and hold meetings throughout the country. An MP must be available and the creation of laws and public policies must be a transparent process that is focused on the needs and requirements of the very citizens.

Unfortunately, the 12th convocation did not bring progress in this area either, so the long-standing (perhaps even decades-long) “self-isolation” of the Assembly and MPs from the citizens they represent continued. Although the offices of MPs for communication with citizens officially exist, there are no indicators that would show that the practice of continuous communication and accessibility to citizens has come to life. Even when such communication exists, it is sporadic and not systemic, and conditioned by the choice and sensibility of the MP and not by institutional practices nurtured by the Assembly itself. Similar conclusions can be reached when analysing the possibilities for direct, online communication with MPs.

It can therefore be argued that the representative function of the Parliament in Serbia is open and challenging in a much more thorough way – the understanding and trust of citizens in this institution is jeopardised. Hence, the topic cannot be the “distance” of MPs from citizens, but rather the citizens’ recognition of MPs and the Assembly as their own representatives who adopt laws and oversee the work of the Government, taking into account their interests. Both the latest and previous public opinion polls indicate that citizens evaluate the work of the Assembly negatively, and the work of MPs even more negatively.[10] Over two thirds think that the MPs are ruining the reputation of the Assembly, about three quarters think that they care more about the interests of their parties than the citizens, and more than half point out that the MPs are not available to the citizens.

Considering the television broadcasts, but also the general idea that citizens have about the work of the Parliament, plenary sessions and debates are the main means by which

[10] Crta, Attitudes of Serbian citizens on participation in democratic processes in 2021, available at: https://crta.rs/istrazivanje-stavovi-gradjana-srbije-o-ucescu-u-demokratskim-procesima-2021-godine/

citizens in 2021 could form the stated negative attitudes about the National Assembly. As the analyses showed, the 12th convocation was marked on the one hand, **by the complete non-existence of the sanctions for violating the Rules of Procedure and the extremely selective application of the Code of Conduct for MPs**. In such a climate, which appears to ideal, **plenary sessions were used to incessantly send propaganda messages, to the detriment of discussions that were supposed to be focused on the agenda**.

4.1. Debateless Parliament

The 12th convocation is the "champion" of one of the longest periods until the constitutive session has been scheduled, even 28 days since the announcement of the election results and as much as 42 days after the elections. However, the election of the Speaker of the Assembly and the establishment of its working bodies took as long as 80 days, which means that approximately four months passed from the day of the elections to the actual beginning of its sittings. The fact that each regular session lasts for three months shows how much was lost from the parliamentary "life" in four months. The first (constitutive) sitting of the National Assembly in the current convocation began on August 3rd, 2020, when the mandates of the MPs were confirmed. The sitting continued and ended on October 22nd, 2020 with the election of the Speaker of the National Assembly, the Deputy Speaker of the National Assembly, the appointment of the Secretary General and the election of members of the working bodies of the National Assembly. According to the current Rules of Procedure, the National Assembly is considered constituted by confirming the mandate of two thirds of MPs, and the mandates of newly elected MPs are confirmed at the constitutive sitting of the Assembly within 30 days of announcing the final election results. In order to avoid a long period of inactivity of the Parliament, it is necessary to define the final deadline within which the procedure of constituting the National Assembly must be completed. If we add to this long period for the constitution of the Parliament the period of ninety days in which the previous convocation actually ended its work by announcing new parliamentary elections, then it can be said that the parliamentary mandate in Serbia actively lasts about 3 and a half years. If we add to this the constitutional and political reality in the past three decades, when only three convocations have achieved a full constitutional mandate, the parliamentary mandate in Serbia lasts an average of two years and seven months. This would mean that with all the above-mentioned phases of "dormancy", MPs have been actively performing the constitutional function of people's representatives for only two years. In this convocation, the MPs were active for a year and four months.

After its constitution, this convocation continued the long-standing practice of non-adopting the Annual Work Plan of the National Assembly. The manner prescribed by the Rules of Procedure is that the Annual Work Plan of the National Assembly is determined by the Speaker of the National Assembly, after consultations at a meeting of the Collegium, bearing in mind obligations of the National Assembly defined by the Law and the Annual Work Plan of the Government. By not respecting this obligation, the MPs and the public were deprived of the possibility of systematic monitoring of parliamentary activities and preparation for reacting on topics that are the subject of their interest. The adoption of the Annual Work Plan would additionally oblige the National Assembly to act within the existing prescribed deadlines and provide citizens with another argument for calling MPs to

account. The Rules of Procedure should further regulate this issue in order to prevent neglect of this obligation, emphasise the importance of work planning and to enable all stakeholders to participate in the decision-making process.

The twelfth convocation did not achieve a satisfactory level of transparency. Although the sessions of the Assembly could be watched on national television and on the Assembly's YouTube channel in real time, where broadcasts from committee meetings and public hearings could be found, the announcements of the agenda and bills were published on the Assembly's website a week before the sitting, the current convocation continued with the practice of not publishing amendments to the bills. This significantly impedes the monitoring of the legislative function of the Parliament. The current Rules of Procedure state which documents are published on the website of the National Assembly, however, in that article it says: "The National Assembly shall publish the following on its Internet site…", which means that the article has been formulated in such a way that there is no obligation to publish all the aforementioned documents. Furthermore, there should be an obligation to publish documents in an open and searchable format, in order to avoid the current practice of publishing regulations in a scanned or non-searchable format. What is also not the current practice and should however be found on the website of the National Assembly are data on the presence of MPs at sittings, shorthand notes from committee sittings, opinions of other bodies regarding draft acts and amendments, and especially the opinion of the Anti-Corruption Agency on the corruption risk of the law.

Considering that the sittings of the Assembly were broadcast on national television, and that the first and basic association of citizens when they think of the Parliament are plenary sessions, it can be concluded that the quality of the debate is extremely important for creating an image of the Assembly. That image in Serbia is not good, and the 12th convocation, in this respect, could only contribute to further damage to the reputation of the Assembly. The MPs' focus on the agenda was often lacking. On 10 occasions in the 12th convocation, the sittings were convened for the next day. On average, in 2021, MPs had 7.4 days to prepare between the date of convening and holding the sitting.

The agenda itself often included a large number of items, sometimes thematically incompatible. Some MPs sometimes even remarked: "*Today we are discussing the Law on the Rights of Users of Temporary Accommodation in Social Protection, we are discussing the Law on the Ruma-Sabac-Loznica Road Construction Project, as well as the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the Republic of India on granting permits to family members of the staff of diplomatic and consular missions to engage in paid activities. Seemingly three completely different laws, which do not have much in common, one in the field of social protection, the other in the field of infrastructure development and the third in the field of bilateral relations between Serbia and India."* Nevertheless, this observation was not followed by criticism, but by an explanation of what connects these laws: "*All three laws are important for improving the quality of people's lives*." It must be noted that such a criterion would be met by an even more creative joint discussion, but the impact on the coherence and efficiency of the discussion was unquestionable. Consequently, debates often seemed confusing, allowing MPs to focus on the topic in just a few sentences, and to use their address arbitrarily, most often for the purpose of spreading propaganda messages.

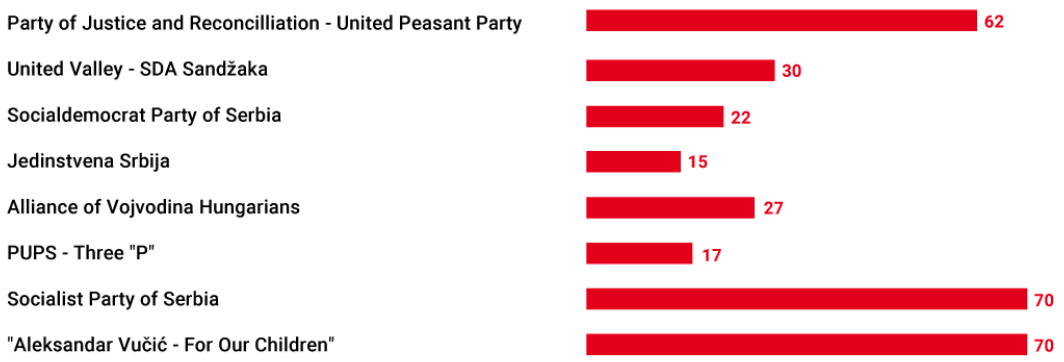
During the 12th convocation, a similar method of abuse befell the institute of seeking information and explanations. The Rules of Procedure provide for the right of an MP to request information and explanations from the Speaker of the National Assembly, the Speaker of the National Assembly Committee, Ministers and officials in other state bodies

and organisations on issues within the rights and duties of these officials from the competencies of the body they lead, so that they could discharge their duties. Exceptionally, the authorised representative of the parliamentary group may exercise this right orally, at a sitting of the National Assembly in one address lasting up to five minutes, on Tuesdays and Thursdays immediately after the opening of the sitting.

Although this mechanism was initially conceived to make available to MPs all the important information, to draw, at the sittings, public attention to some important issues, i.e. to exert additional pressure on institutions from which an explanation is required when necessary, it was massively abused. During the 12th convocation, it was reduced to 5 minutes "on the free topic" – and that meant either praising the President of the Republic and the Government, or attacking (rarely criticising) opposition representatives.

Throughout this convocation, 67 MPs orally requested 313 notifications and explanations. The opposition parliamentary group was given the opportunity to explain its demands orally 30 times, which is 10 percent of the total number of oral requests. The largest number of requests, 70 each, were sent by authorised representatives of the largest parties of the ruling majority – the Serbian Progressive Party and the Socialist Party of Serbia (chart 1).

Chart 1: Requests for notifications and explanations sent by parliamentary groups in 12th convocation



The complete arbitrariness of the manner in which this institute was used in the 12th convocation is illustrated by the fact that MPs often did not specify the name of the institution that they addressed, using colloquial and generalising terms such as "judiciary", and sometimes listed more institutions in their requests. In as many as 34 cases, MPs did not name any specific institution to which they addressed the request, evidently and openly abusing this mechanism.

The uniformity of this convocation has led to the almost non-existence of violations of the Rules of Procedure. Although MPs often referred to the Rules of Procedure in the context of rebuttals or protests against someone's speech, this was most often done in order to disrupt a small number of opposition MPs. This claim is supported by the fact that after referring to the Rules of Procedure, a vote on the violation of the Rules of Procedure was requested only once, although, undoubtedly there were many to be heard. During the 12th convocation, sittings were turned into the voice of political propaganda. The MPs used the rostrum without hindrance for confrontations with political dissidents and not for topics from

the current agenda. Paradoxically, after more than ten years of delay, this convocation adopted the Code of Conduct for MPs, in an urgent procedure and without involving the public in the process. Unlike the Code, which provides certain basic principles and ethical values that MPs should respect, the Rules of Procedure regulate only the conduct or inappropriate behaviour of MPs at sittings of the National Assembly and its bodies and sanction such behaviour with measures that have greater effect than measures prescribed by the Code.

And the way in which the Code of Conduct for MPs was adopted at the end of 2020 did not inspire confidence that its implementation would lead to an improvement in the way that debates would take place in the National Assembly…nor that it was the goal at the first place. The Code was adopted without public involvement and by urgent procedure, making it clear that this task is being approached in order to meet the requirements of international organisations[11]. The manner in which the Code was adopted, the solutions selected in it and the manner in which it was implemented are marked by significant shortcomings.

The same circumstances accompanied the adoption of amendments that took place as late as in September 2021 and which have finally created the conditions for full implementation of the Code.[12] As stated in the rationale of the proposal, the main reason for the adoption of the changes is the fulfilment of the recommendations of GRECO (Group of States of the Council of Europe for the Fight against Corruption), but also the initiative of the Government. In other words, the Assembly of Serbia did not independently, for the sake of protecting the public interest and restoring the trust of citizens in its work, recognised shortcomings in the previous nine-month application of the Code of Conduct, but this document was used just to get quick points in international reports.

Since the beginning of the application of the Code, 10 charges have been filed against MPs who violated it, both for using hate speech, diminishing human dignity and inciting intolerance, and for violating parliamentary procedures. All but one of the applications were rejected as unfounded. Thus, the application of the Code in the 12 convocation was marked by a lack of understanding of its essence, unwillingness of members of the parliamentary majority to change the way political dissidents are talked about in the Assembly, malicious and misinterpretation of the role of the civil sector, and continuous and intense verbal attacks on independent media and civil society organisations. Hence, as in the case of the Rules of Procedure, it can be concluded that mechanisms that would lead to a purposeful and focused debate, which would not “deviate” into inappropriate rhetoric that insults the dignity of the National Assembly were simply not used.

Authors of the analysis: Miša Bojović and Milena Manojlović, Open Parliament, CRTA

[11] Open Parliament, Analysis of the Code of Conduct for MPs and its implementation, available at: https://otvoreniparlament.rs/uploads/istrazivanja/Analiza%20Kodeksa%20pona%C5%A1anja%20narodnih%20poslanika%20i%20njegove%20primene.pdf

[12] Open Parliament, Amendments to the Code of Conduct will not improve the climate in the Assembly, available at: https://otvoreniparlament.rs/aktuelno/392

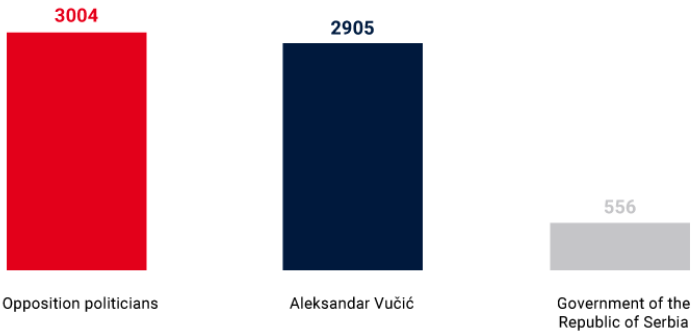
4.2. Speeches in the National Assembly of the Republic of Serbia - Discourses on the executive and the opposition

As an initiative dedicated to increasing the publicity of the work of the Parliament and informing the citizens about the work of the Assembly, the Open Parliament researched the way that MPs talk about the holders of executive power in the plenum – about the President, the Prime Minister and ministers – as well as about leaders and prominent politicians of opposition parties. The period from September to the end of 2021 was analysed, i.e. the last four months of the work of the National Assembly in the past year. The analysis covered a part of the extraordinary sittings and the entire ordinary autumn session held in this period. For that purpose, continuous monitoring of all speeches in the plenum of the National Assembly was conducted, as well as recording of each individual mention of the cited actors with an assessment of the tonality: whether the actors were spoken about in a positive, neutral or negative light. A total of 738 speeches were analysed, in which 6,465 individual mentions of the observed actors were recorded and evaluated.

Further analysis of the speeches sought to find out what kind of discourses about the most influential political actors are being created in the National Assembly. In that sense, the fact that the current legislature was formed after the elections that were boycotted by some opposition parties, and that as many as 97% of MPs belong to the ruling majority, seems to be crucial. In such circumstances, the plenary debates in the National Assembly have been largely reduced to just another channel for sending propaganda messages, often the same ones that previously appeared in the pro-government media. Informed and focused discussion of agenda items, asking questions and opening topics that are important to citizens, as well as efficient control of the executive branch are largely lacking.

Insight into the representation of actors in the speeches of MPs, reveals, above all, a lot about the division of power and the idea that MPs have about their own role. Although the basic function of the National Assembly is to oversee and control the work of the Government of the Republic, the focus of parliamentary speeches is on the President of the Republic and opposition leaders.

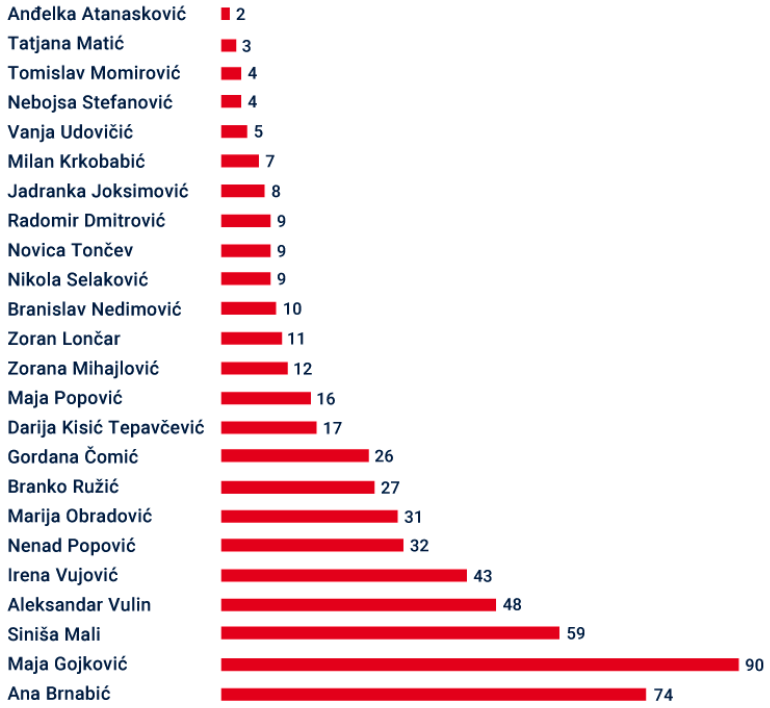
Chart 1: Representation of political actors



By far the most frequently mentioned actor with 45% (2905 times) is the President of the Republic, who is also the President of the strongest parliamentary party (the Serbian Progressive Party), Aleksandar Vučić (Chart 1).

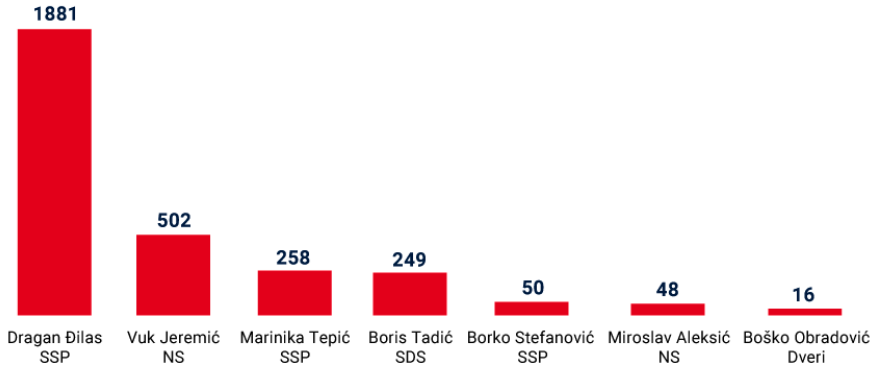
The Prime Minister of the Republic and all her ministers were mentioned in only nine percent (556 times) of the total mention of all actors included in the research. The Prime Minister, who according to the Constitution is also the holder of the most influential political function in this country, was mentioned by the MPs only 74 times. In addition to the President of the Republic, as many as four opposition politicians and one minister were mentioned more often in the Assembly than Ana Brnabić (Chart 2).

Chart 2: Representation of members of the Government of Serbia



The number of mentions indicates that the current legislature was focused on the opposition during the last four months of 2021. Thus, 46 percent of the total representation of all actors goes to seven opposition politicians, who were mentioned as many as 3,004 times.

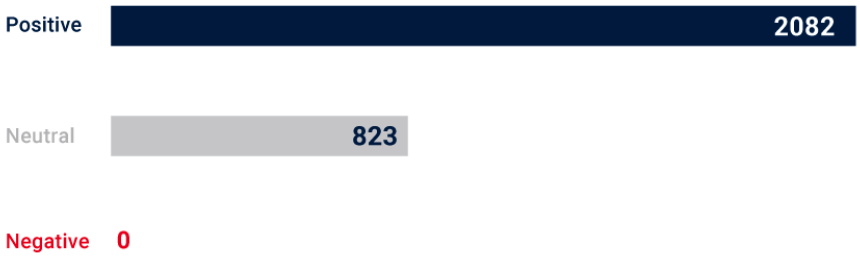
Chart 3: Representation of opposition politicians



As can be seen in Chart 3, when it comes to opposition politicians, the president of the Party of Freedom and Justice, Dragan Đilas, was most often mentioned, as many as 1,881 times. Hence, Đilas is in second place in terms of individual mentions in the National Assembly, after the President of the Republic.

The tonality of the mention of the cited actors reveals the full extent to which the plenary debate in the National Assembly was abused and staged for the purpose of party interests.

Chart 4: Tonality of mentioning the President of the Republic



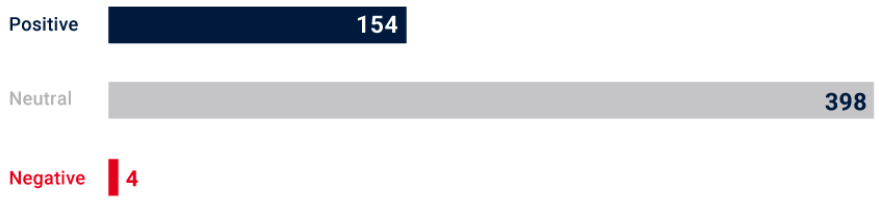
The President of the Republic is most often mentioned in a positive tonality, in 72 percent (as many as 2,082) of his total mentions, while the remaining 28 percent are neutral mentions. In the observed period, no mention of President Vučić in a negative tonality was recorded (Chart 4).

While the neutral tonality is most often associated with the mention of the parliamentary group whose name includes the name of the President, as well as the valuatively indistinct mentions of Aleksandar Vučić as President of the Republic, positive mentions serve to carefully build a cult of personality. Thus, in the plenum of the National Assembly, Vučić is responsible for every success of the ruling majority, which is usually presented in the media beforehand. In that context, the constitutional powers of the President and the Government have become completely irrelevant to the MPs. Along with the merits, the MPs of the ruling majority carefully perpetuate other narratives present in the media about President Vučić,

such as the one about constant threats and attacks on him and his family members, or about personal good relations he built with certain foreign statesmen and the like. In that sense, the plenary debate, while neglecting the agenda and basic functions of the Assembly, is often reduced to a stage serving for several hours of additional repetition of messages about the President and from the President, which were previously communicated to voters at a press conference or during guest appearance.

In addition to the general neglect, i.e. little attention paid to the discussion of the efforts of the Prime Minister and individual ministers, the research indicates that the Government was mostly talked about in a neutral tonality. Positive tonality was recognised in 28 percent of mentions, and only one percent of negative mentions was recorded (Chart 5).

Chart 5: Tonality of mentioning of the Government of the Republic of Serbia



The four negative mentions of the ministers refer to three speeches given by the MPs who do not belong to the ruling majority. In the first, the Minister in charge of education, Branko Ružić, was criticised for ordering the school year to begin with the intonation of the national anthem of the Republic of Serbia. The Minister of Culture Maja Gojković, was praised for her work, but also animadverted for supporting, as a “high official of the SNS”, the decision of the Government of Serbia to allocate insufficient funds for culture. The Minister for European Integration, Jadranka Joksimović, was reprimanded for treating the MPs and the Assembly, together with the representatives of the “Brussels civil sector and especially the EU representatives”, in a “humiliating way”. At the same time, support was provided to the Speaker of the National Assembly Ivica Dačić, who, according to an independent MP, opposed such an attitude at the session of the National Convention on the EU held at the end of December.

In addition to representation, the way in which the representatives of the opposition were discussed in the Assembly fully confirms the conclusion that plenary debates are abused for the purpose of circumscribed party interests, i.e. placing propaganda messages to voters.

Chart 6: Tonality of mentioning of the opposition representatives

Negative tonality makes up 94 percent (2826 times) of the total recorded mentions of the opposition actors, while the remaining six percent (178 times) can be assessed as neutral (Chart 6). However, it is important to note that "criticism" of the opposition representatives often cannot be considered a speech that is in line with the codes and ethical standards that bind MPs. They are reduced to insults and belittling of the observed seven actors, but also of other opposition politicians and public figures who express any criticism at the expense of the ruling majority. By far the most common target of criticism, but also of attacks inappropriate for the Assembly (or any public sphere), which are continuously repeated at every session, is Dragan Đilas. During the observed period, the leader of the Party of Freedom and Justice was mentioned as many as 1,785 times in a negative tone, i.e. in 95% of the cases of his total mentions.

There is a widespread practice in which negative campaigns, which were first started by the President of the Republic in the pro-government media, spill over into plenary sittings, with complete disregard for the agenda and topics that were supposed to be discussed. The case of Zdravko Ponoš is illustrative. On October 31st, 2021, he was recognised in the media for the first time as a potential joint candidate of the opposition in the upcoming presidential elections. The next two days were followed by the reactions of the current President of the Republic, who, in his statements to the media, increasingly attacked his possible opponent.

At the same time, Zdravko Ponoš became the subject of a coordinated attack by several MPs at the sitting of the National Assembly held on November 2nd. Thus, at the National Assembly, in the week in which the Bill on the Protector of Citizens was – or at least should have been – debated, the MPs dealt with the opposition's candidate, jointly repeating the claims made by the President of the Republic. At that sitting, as well as at the one held the next day, November 3rd, 2021, Zdravko Ponoš was mentioned 72 times in a negative tonality. In the same days, Ponoš was on the front pages of pro-government daily newspapers, which is another indicator of mutual harmonisation and coordination between media appearances of the President of the Republic, plenary speeches of MPs, and reporting by pro-government daily newspapers and television.

Similar mechanisms have been observed in the earlier period. Thus, in March 2021, during the parliamentary sittings, the MPs spoke intensively about the "Mauritius" affair, in which Dragan Đilas was the main target. Here, too, the initial information came from the President of the Republic just like it was the case with Ponoš in November.

The Open Parliament's research on discourses on political actors, which are created and maintained through plenary speeches in the National Assembly, indicates the essential

dysfunction of the 12th legislature. As a matter of fact, while other indicators, such as the use of urgent procedure in the adoption of laws, can be easily adjusted so that, at least on paper, the functioning of the Parliament seems more or less normal, it is much more difficult to simulate normalcy when it comes to plenary debate.

Monitoring and analysis of plenary debates first reveal a distinct illogicality, because the focus of the MPs is put on the President of the Republic, and not on the work of the Government, although oversight of the Government is the basis of the control function of the Parliament. Therefore, if the institutions functioned in accordance with the Constitution and laws, the mention of the President of the Republic in the Parliament should be sporadic, because the oversight over the work of the President, who is also directly elected by the citizens, does not fall within the competence of the Parliament. Nevertheless, the fact that the President of the Republic is also the President of the largest political party leads to the circumstance that his presence in the Parliament is so great that his name features even in the name of the largest parliamentary group. The fact that the president of the state, Aleksandar Vučić, is the most influential political figure has led to a significant distortion of the Serbian political system, in which the function of the Prime Minister and the Government as such is reduced to servicing decisions made by one person. The current Parliament has contributed to the relocation and centralisation of power, often normalising practices that should not occur, and marginalising the Assembly itself. At the same time, the plenum served to continuously build a cult of personality. The control function of the Parliament has been reduced to a pure form, just as the role of the Government is in practice limited by the dominant position of the President of the Republic, who occupies on a daily basis a space that significantly exceeds his powers.

The research on discourses in the National Assembly of the Republic of Serbia was conducted within the scope of the project "Open Parliament - Bridging the Gap between Citizens and the Parliament" financially supported by the Embassy of the Federal Republic of Germany in Belgrade. The results of this research are the sole responsibility of CRTA and may in no way be taken to reflect the views of the Embassy of the Federal Republic of Germany in Belgrade.

Author of the analysis: Milena Manojlović, Open Parliament, CRTA

About the Open Parliament

The Open Parliament initiative has been monitoring the work of the National Assembly of the Republic of Serbia since 2012. The Open Parliament collects and publishes data on the activities of deputies, the work and results of the work of the National Assembly, as well as analyses of various processes from the perspective of transparency, accountability and participation.

The main goal of the Open Parliament initiative is to increase the publicity of the work of the Parliament, inform the citizens about the work of the Parliament and establish regular communication between the citizens and their elected representatives. We found our work on the values contained in the International Declaration of Parliamentary Openness, in the development of which the Open Parliament also participated.

OTVORENI PARLAMENT

Inicijativa Otvoreni parlament svakodnevno prati rad Narodne skupštine Republike Srbije od 2012. godine. Otvoreni parlament prikuplja i objavljuje podatke o aktivnostima narodnih poslanika i poslanica, radu i rezultatima rada Narodne skupštine, i bavi se analizom različitih procesa iz perspektive transparentnosti, odgovornosti i participativnosti. Osnovni cilj inicijative Otvoreni parlament je povećanje javnosti rada parlamenta, informisanje građana o radu parlamenta i uspostavljanje redovne komunikacije između građana i njihovih izabranih predstavnika. Svoj rad baziramo na vrednostima koje su sadržane u međunarodnoj Deklaraciji o otvorenosti parlamenata, u čijem razvoju je učestvovao i Otvoreni parlament.

OTVORENI PARLAMENT.rs

O vama se radi.